SAN FRANCISCO PUBLIC LIBRARY
3 1223 06257 1949
SAN FRANCISCO PUBLIC LIBRARY
3 1223 06257 1808

5/S

San Francisco Public Library

GOVERNMENT INFORMATION CENTER
SAN FRANCISCO PUBLIC LIBRARY

REFERENCE BOOK

Not to be taken from the Library

OCT 29 2002

AGM-1094; AGM-1100

SAN FRANCISCO ARTS COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

AGENDAS AND MINUTES

1997 – 1999

3 1223 06257 1808

3 1223 06257 1949

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
GALLERY
OPS SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

SF
A70.75
#2
1/8/97

DOCUMENTS DEPT.
JAN 06 1997
SAN FRANCISCO PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, January 8, 1997
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE AND POSSIBLE MOTION TO SUSPEND OR REVOKE CERTIFICATES

Polina Ardeleanu and **Valery Sinyakov (Certificates # 4731** and **# 4755)** Alleged violation: Selling items not of the artists' own creation (commercially manufactured cast and fabricated metal and amber jewelry).

II HEARING AND POSSIBLE MOTION TO APPROVE REQUEST FOR CERTIFICATION OF CRAFT ITEM

Polina Ardeleanu and **Valery Sinyakov (Certificates # 4731** and **# 4755).** Request for certification: cast metal and amber jewelry.

III HEARING AND POSSIBLE MOTION TO APPROVE NEW LOTTERY RULE (proposed by Lottery Committee member Virginia Burris)

LAST NUMBER FOR STREET ARTIST LATE FOR LOTTERY: If a street artist arrives late to enter his/her number in the lottery or has forgotten to enter his/her number, the artist shall automatically receive the last lottery number. When the artist arrives late to enter the main lottery, the artist shall go directly to the Lottery Committee person running the lottery to receive the last number. The Lottery Committee person shall then write on the artist's lottery slip the artist's name, certificate number, and the words "Late #1", "Late #2", etc. After all numbers have been drawn and recorded, the record sheet shall be returned to the Lottery Committee table at which time the last numbers shall be recorded and given their lottery numbers.

CITY AND COUNTY OF SAN FRANCISCO

IV HEARING AND POSSIBLE MOTION TO APPROVE ELIMINATION OF CLIFF HOUSE LOTTERY AT POINT LOBOS AND TO COMBINE CLIFF

HOUSE AND FISHERMAN'S WHARF LOTTERIES INTO ONE LOTTERY TO BE HELD AT SAME TIME AND PLACE CURRENTLY HELD FOR WHARF LOTTERY (proposal received by petition)

V **HEARING AND POSSIBLE MOTION TO APPROVE EXTENDED TIME PERIOD FOR AMENDMENT OF LOTTERY OCCUPANCY RULE WHICH ELIMINATED PROVISION FOR A "MARKED" (ASSIGNED) SPACE TO REMAIN VACANT UNTIL THE ASSIGNED ARTIST USES IT, AND PROVIDED FOR A LOTTERY TO BE HELD AFTER THE NOON LOTTERY TO DISTRIBUTE VACANT ASSIGNED SPACES AMONG NON-ASSIGNED ARTISTS WHO MAY OCCUPY SUCH SPACES UNTIL SUCH TIME AS THEY ARE OCCUPIED BY THE ASSIGNED ARTISTS** (amendment approved by full Art Commission on May 1, 1995)

VI **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL TO ELIMINATE LEAVENWORTH STREET LOTTERY AND TO LOTTERIZE THE TEN SPACES ON LEAVENWORTH STREET (JEFFERSON TO BEACH STREETS) AS PART OF THE FISHERMAN'S WHARF LOTTERY** (proposal submitted by Street Artist Mike Granatt)

VII **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL TO AMEND ORD. 41-83 (STREET ARTIST ORDINANCE), SECTION 2405(c)(3) BY INCREASING THE HEIGHT LIMIT OF STREET ARTIST DISPLAYS FROM THE PRESENT FIVE (5) FEET ABOVE ANY SIDEWALK TO SIX (6) FEET ABOVE ANY SIDEWALK** (proposal submitted by Street Artist Mike Granatt)

VIII **PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM**

IX **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

X **ADJOURNMENT**

ACCESSIBILITY INFORMATION

*Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline at (415)**554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHIRE ORDINANCE TASK FORCE AT 554-6075.

18543 SFPL: ECONO JRS
133 SFPL 09/27/02 126

SF
10.75
1
8/97

SAN FRANCISCO ART COMMISSION

DOCUMENTS DEPT.
FEB 06 1997
SAN FRANCISCO
PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

January 8, 1997
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith

Commissioner absent: Dede Wilsey

Staff present: Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, called the meeting to order at 3:00 p.m.

I HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE AND POSSIBLE MOTION TO SUSPEND OR REVOKE CERIFICATES

Polina Ardeleanu and **Valery Sinyakov (Certificates # 4731)** and **# 4755).** Alleged violation: Selling items not of the artists' own creation (commercially manufactured cast and fabricated metal and amber jewelry).

Program Director Lazar presented the following chronology of the case:

1) October 23, 1996 - The Program Director photographed Ms. Ardeleanu offering for sale alleged commercially manufactured cast and fabricated metal and amber pendants, necklaces, and rings. (The photos of the incident were submitted as evidence.) The Program Director on October 30th sent Ms. Ardeleanu a written warning against continuing to sell the items.

2) November 1, 1996 - Ms. Ardeleanu and Mr. Sinyakov applied for an examination (screening) of the craft "casting" for certification; their items were examined on November 21st by the Advisory Committee of Street Artists and Craftsmen Examiners who did not approve them for the craft, found that most of the receipts they submitted for their materials were "dated in the last two weeks," and recommended that a studio visit be performed for further investigation as to whether the two certificate-holders made the cast metal and amber jewelry they wished to sell. (Photos of the examination were submitted.) At the same time, the members of the Advisory Committee as well as the Program Director warned Ms. Ardeleanu and Mr. Sinyakov against selling the items in question pending the outcome of a determination

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
POPS Symphony Concerts
Public Art

Street Artists Licenses
Suite 70
415.252.2581

Art Commission Gallery
401 Van Ness Avenue
415.554.6080

City and County of San Francisco

25 Van Ness Ave. Suite 240. San Francisco, CA. 94102 tel. 415.252.2590 fax 415.252.2595

by both the Advisory Committee and the Program Committee.

3) December 7, 1996 - Street Artist Eunice Rodriguez witnessed Mr. Sinyakov offering for sale the alleged commercially manufactured metal and amber jewelry and submitted a letter-complaint about this.

4) December 11, 1996 - The Advisory Committee studio visit was performed at a site in San Mateo where artists pay for the facility to cast their own jewelry. According to the Advisory Committee's notes (submitted with photos taken at the visit, as evidence):

- Ms. Ardeleanu and Mr. Sinyakov "were not prepared to demonstrate wax carving."

- Mr. Sinyakov "demonstrated rubber moldmaking"; Ms. Ardeleanu "demonstrated preparing investment for casting. Both artists seemed familiar w/materials and process" of this step of production; but there was "no volume of half-finished works in progress and/or finished pieces ... in evidence."

- There were "no receipts for raw materials." The two certificate-holders told the Advisory Committee that "various Russian people came by" and "sold silver" to them to use for their castings.

- The two also told the Advisory Committee that "some of the pieces they were selling had been made in Russia, and some here."

- While "a number of molds which matched waxes were in evidence," and while the two certificate-holders "demonstrated pouring wax into a mold," the Advisory Committee saw no rental receipts for use of the commercial casting studio, and the Committee was not convinced that the two made their items.

- The Advisory Committee allowed for a second studio visit to be scheduled in the home of the two certificate-holders, as they requested, in order for them to demonstrate wax carving.

5) December 12, 1996 - Ms. Ardeleanu and Mr. Sinyakov came to a meeting of the Advisory Committee and were again told explicitly by the Committee and the Program Director that they were not allowed to sell the cast and/or fabricat-

ed metal and amber jewelry pending Advisory Committee and Program Committee approval, but that they could sell the "fabricated metal and stone jewelry" they had shown the Advisory Committee on February 29, 1996 and for which they had received certification. (Photos from the February 29th screening were submitted as evidence.)

6) December 14, 1996 - Advisory Committee member Mathew Porkola found Ms. Ardeleanu and Mr. Sinyakov at their display selling "none of the designs we had approved" (on 2/29/96); they were selling both cast and fabricated items that looked "very similar to the Graciana catalogue." (Photos taken by Mr. Porkola of the incident were submitted as evidence.)

After observing the incident, Mr. Porkola went to the Graciana showroom at 888 Brannan Street and "observed many items very similar to those" displayed by Ms. Ardeleanu and Mr. Sinyakov "and some that were exactly the same such as the silver encased amber crosses and the leaf design."

In his notes from his street monitoring duty that day, Mr. Porkola wrote: "Given the complete lack of designs we had seen produced by Polina and Valery on their table, the lack of supporting receipts, and the overwhelming similarity of their display with what I observed in the Graciana showroom 15 minutes later while it was fresh in my mind, I can only conclude that the street artists in question did not personally create the items on their display."

7) Prior to the Advisory Committee's studio visit, Street Artist Leah Mazor on December 1, 1996 observed Mr. Sinyakov selling "illegal" items: all amber, "some of them only the stone, without design on them," and sent this observation in a letter to the Program Director.

8) During the investigation, the Program Director on November 6, 1996 obtained a catalogue from Graciana and a purchase of $62 worth of Graciana jewelry. (The catalogue, the jewelry, and the invoice were submitted as evidence; the Program Director requested the Commissioners to compare the catalogue's photos and the jewelry samples with the photos he took relative to the initial warning and the photos taken by Mr. Porkola on December 14th.)

The Commissioners heard from Street Artist Eunice Rodriguez who stated that, in reference to the letter she submitted, she had been selling on Stockton Street, walked up to Mr. Sinyakov's display at about 1:00, and observed Mr. Sinyakov

sketching designs of items he had on his table. When she asked him whether he was supposed to sell the items prior to receiving the Art Commission's verification, he responded that it was none of her business, that it was his business.

In response to questions put forth by the Program Director, Mrs. Rodriguez stated that the items on Mr. Sinyakov's table that day looked identical to items displayed in the Graciana shop; she has purchased from Graciana items personally for herself, and has been doing business with the shop for about five years.

The Commissioners heard from Street Artist Leah Mazor who stated, in reference to the letter she had submitted, that on the day she sold next to Mr. Sinyakov all the items on his display were "illegal," and that some of the items were just amber stones (with no metal adornment or design on them). She saw him sell a pre-cut stone cross.

The Commissioners heard from Advisory Committee Member Mathew Porkola who stated, in reference to the letter and photos he had submitted, that he saw Mr. Sinyakov and Ms. Ardeleanu offering for sale certain items "that were exactly the same as what I saw at the Graciana showroom": a "snail" design as well as a series of animal forms with amber insets, bracelets, the pre-cut amber cross. Mr. Porkola identified the "snail" and the cross in the photos he had submitted.

Mr. Porkola examined the items Mr. Sinyakov and Ms. Ardeleanu now displayed for the Commissioners and pointed to an "open cala lily" necklace which, he said, his Committee had approved; but, he said, there were no necklaces of this design on their table the day he photographed their items. In response to a question by Commissioner Rogers, Mr. Porkola stated that, on the day he photographed their table, he "didn't really see anything that they had ever shown us" at their screenings or studio visit.

In reference to the studio visit, Mr. Porkola stated that the two certificate-holders failed to produce enough evidence in the form of a body of work; they showed molds but did not have any work that matched the molds. A studio visit, he said, is an opportunity for an artist to be able to show his or her craft process in its entirety, in detail, and Mr. Sinyakov and Ms. Ardeleanu had been told that that was the purpose for their studio visit. In talking with them, he said, Mr. Sinyakov sounded knowledgeable. Mr. Porkola had wanted to do a second studio visit on their craft to

give them an opportunity to show wax carving; but, on the evidence of what he subsequently saw on their table, he did not feel a second studio visit was necessary.

The Commissioners heard from Advisory Committee Member Josie Grant who stated that she, too, had attended the studio visit and concurred with Mr. Porkola's statements about the visit. She added that, at their screening, Ms. Ardeleanu demonstrated that she was adept at carving wax, but "the definition was apparently not the same: it was a good copy." The Advisory Committee members had expected to see everything at the studio visit; the members were told that half the items of the two certificate-holders were at their home in San Francisco, while the place where they supposedly did their casting was in San Mateo. At the casting location, they were able to show the Committee many of the steps of the process, but they did not pour or cast anything. They did not have a mold prepared for casting.

In examining the display of items now being shown at the hearing, Ms. Grant stated that she had "never seen any of that jewelry" except for the one necklace (Mr. Porkola had identified).

The Commissioners heard from Attorney Laura Woodward, representing Ms. Ardeleanu and Mr. Sinyakov. Ms. Woodward stated that her clients were Russian, had some language difficulty, and were very upset that their integrity was questioned. They were approved in 1995 to sell amber beads. In February of 1996 they were screened for fabricated metal work. Mr. Sinyakov, she said, understood from the arts and crafts criteria entitled "FABRICATED AND/OR CAST JEWELRY" that he could do both. In July they rented casting equipment and arranged with the people in San Mateo to use their equipment. When they were told they could not sell cast items without obtaining additional certification, they requested to be screened for casting. They were only prepared at that point to show casting, not fabricating, and they thought it was more relevant to do it in San Mateo where they do the casting, rather than at their home studio where they do most of the designs.

Ms. Woodward stated that there did not "seem to be any doubt that both of these people make silver and amber jewelry"; the question before the Commissioners was "whether or not they made the jewelry that they have been selling." There appeared to be some question as to how her clients "could suddenly have developed such great technique" as to make

such high-quality jewelry.

Ms. Woodward submitted a layout-drawing of a segment of street artist spaces and stated that she had a witness who could testify that Eunice Rodriguez was never close enough to see what Ms. Ardeleanu and Mr. Sinyakov were selling, to have made such a determination as to what they were selling.

Ms. Woodward also submitted an original letter and translation attesting to Mr. Sinyakov's being "a fairly renowned jewelry designer" who worked "since 1949 in Latvia." Ms. Woodward asked him to write to the company which bought his designs, many of which, she said, "are commercially produced and which Graciana, among other people, produce." Most Russian designs of silver and amber jewelry look similar; but they are made by different people. The problem was that her clients, who are Russian and have experience in Slavic countries making the jewelry, were making the same kinds of designs that are sold commercially.

Ms. Woodward stated that there was a dearth of information before the Program Committee to the effect that her clients did not make the designs. If three people felt it was Graciana's jewelry, she asked why evidence had not been presented to show that Graciana sold her clients the jewelry.

Ms. Woodward submitted a folder of her clients' invoices which, she stated, was for the months of January through December, 1996, relating to purchases of beads, amber, and the rental of the casting studio in San Mateo. She said that her clients were prepared to accommodate the Advisory Committee with a second studio visit.

In reference to the work her clients brought to the Commissioners, Ms. Woodward stated they brought a number of finished and unfinished pieces, including the cut stone referred to earlier which, she said, was really a part of an unfinished piece and not a stone to be sold separately. There was no evidence to show that the stone cross had been sold or to whom it was sold or for how much. She showed what she called "a hand-cut stone ... lapidary" which, she said, Mr. Sinyakov had cut.

Program Director Lazar stated that the Art Commission had not certified Mr. Sinyakov for lapidary.

Ms. Woodward stated that, in reference to Eunice Rodriguez'

testimony that she saw Mr. Sinyakov sell illegal items, the person who was next to her clients on that day observed what happened.

Street Artist Alexandra Zyo told the Commissioners that she had her booth next to Mr. Sinyakov, and she saw Eunice Rodriguez look over from a distance and say something to him "but never came up to see anything." To this, Commissioner Rogers read from Mrs. Rodriguez's letter: "'... I went very nicely to his table where he was standing hand-sketching the pieces of amber into a book...'" The Commissioner stated that this implied that Mrs. Rodriguez walked over and stood at the table.

Ms. Woodward stated that what was before the Commissioners was the question of whether her clients were selling items they had not made themselves, and there was no evidence that they did so; there was evidence, she said, that they were selling items that looked like items other people are marketing. Furthermore, she stated, if a street artist is certified to sell fabricated jewelry, the artist would not have to submit items to the Advisory Committee every time the artist "changed some small item in" the "design."

Commissioner Rogers clarified that her clients had not convinced the Advisory Committee that they made the pieces they sold; the Advisory Committee remained thoroughly unconvinced that they made the items.

Ms. Woodward stated that this happened because there was a communication problem: her clients had thought they were being examined only for casting. Until today's hearing, she was not aware that they did not do an actual casting. There was confusion between what her clients thought was expected of them and the language difficulty that exists.

Ms. Woodward went on to say that her clients had not convinced the Commission's staff possibly because there was "a sense of disbelief" that her clients "could make such high quality" fabricated and cast items which they had not been showing previously. This was why, she said, she presented evidence that this was experiece they had in Russia "that they obviously weren't set up to do initially when they got here, and when they did, they did apply to do it."

While her clients should have been more circumspect in dealing with the Advisory Committee and the Program Director in terms of what they needed to do to be certified, Ms.

Woodward said, there was some confusion with the rules and a language problem. She asked that the Advisory Committee further investigate the issue of whether her clients sell what they make, and that more direct evidence be obtained that they received goods from a source that sells to the public. She questioned how her clients could afford to re-sell items they had purchased at the high wholesale prices offered by Graciana. There was evidence to show that her clients were "capable" of making the items they were selling; and the year's worth of invoices constituted evidence that they bought the materials and rented the equipment to make the kinds of items they were selling. She asked that the Program Director make further investigation and report at a later hearing.

Advisory Committee Members Porkola and Grant were directed to examine the invoices Ms. Woodward presented.

In response to questions by the Program Director, Street Artist Eunice Rodriguez stated that, in reference to her complaint, she "walked up to" Mr. Sinyakov who was behind his display and stood "to the side of the table" when she asked him whether he had received the Art Commission's approval to sell the pieces.

The Program Director clarified that the act of selling an illegal item is not required as evidence to support the violation, for the street artist ordinance provides that to merely "offer for sale" or "expose for sale" items not certified by the Commission constitutes a violation. Therefore, evidence in the form of a customer's statement is not necessary. Also, Mr. Sinyakov never showed the Advisory Committee he could cut stones; the Committee would not approve his offering for sale any cut stone items unless he proved he cut them.

The Program Director went on to say that it was possible for a jewelry company to very easily have street artists as agents selling its items; the items could be given to them on consignment. The evidence of the purchased pieces of jewelry from Graciana, the store's catalogue, the photos taken by the Program Director and Advisory Committee Member Porkola, the unsatisfactory studio visit, and the statements given by four artists - two of whom are considered as art experts nominated by the Art Commission to serve on its Advisory Committee - constituted a preponderance of evidence. The City Attorney advised the Commission to determine a preponderance of evidence in its hearings

on street artist violations.

While it may eventually be proven that Mr. Sinyakov can make silver and amber jewelry, the Program Director said that what is at issue is that Mr. Sinyakov and Ms. Ardeleanu demonstrated deception in obtaining their certificates when they sold items for which they were not certified and continued to sell the items after they had received a written warning followed by verbal warnings from both the Advisory Committee and the Program Director to refrain from selling the items.

In addition to their ongoing display of uncertified silver and amber, the Program Director stated that in 1995 Ms. Ardeleanu requested certification for painted papier mache pins and boxes; the Advisory Committee watched her paint the items in comparison with the finished pieces she wished to sell, determined that the finished items were of a higher calibre of craftsmanship than that which she demonstrated, and wrote on her application: "WARNING: NOT TO SELL IMPORTED ITEMS ..." This was one more reason why the Program Director was not inclined to trust the two certificate-holders to sell what they make. He did not feel that the Commission should be convinced to allow them to sell the jewelry and to let them not serve a suspension.

Ms. Woodward stated that what Ms. Ardeleanu may or may not have done in 1995 should not impact the credibility or certificate of Mr. Sinyakov. As for warnings, she said that the second page of the notice of hearing her clients received states: "Pending final action, you are free to continue the sales activities for which you are certified," and this represented a mixed message in the form of the hearing notice of what they can and cannot sell.

In response to this, the Program Director clarified that Ms. Woodward's clients were free to sell the certified fabricated metal and stone jewelry that was observed and approved by the Advisory Committee. Commissioner Rogers concurred with this.

Street Artist Leah Mazor stated that while she herself, having been in this country only four years, has difficulty with English, if a message is important to her, she will find a person to explain it to her.

After examining the invoices Ms. Woodward submitted, Advisory Committee Member Mathew Porkola stated that Ms. Grant and he found only two receipts for amber and this did not

cover the numerous shapes of items her clients displayed. Furthermore, both invoices were photocopies with dates appearing to have been changed.

In response to a question from Commissioner Rogers, Mr. Porkola stated that what he had observed on Mr. Sinyakov's table had no reference to anything his Committee had ever screened of Mr. Sinyakov's or Ms. Ardeleanu's work.

Advisory Committee Member Josie Grant stated that her Committee had made their concerns explicit to the two certificate-holders. They demonstrated working with wax, but it did not match the detailing; the studio visit itself did not prove to them that the two made their work. Most of the receipts were dated in December - after the studio visit of November. In viewing the work that was now being shown to the Commissioners, Ms. Grant said she had not seen any of these pieces before.

Mr. Porkola added that when he went to the Graciana showroom, he saw reasonable wholesale prices, as a bracelet for $18 and a pair of earrings for $9, and a large supply of half-off items; given the prices of fine jewelry that artists sell, it would be possible to get $30, $40, or $80 for a necklace on the street.

Commissioner Freebairn-Smith stated that, in evaluating the material received at the hearing, his instinct was to be very cautious in the matter, as it was quite significant to the Commission; even if there was a serious misunderstanding arising from a language difficulty, it was a matter of great consequence to other street artists. He would advocate a resolution to the matter which would stop the possibility of commercially manufactured items being presented to the public.

Commissioner Rogers stated that, without touching on the issue of the artists' ability to make the items, he was troubled by a distinct lack of respect the artists have shown for both the Program's rules and the Advisory Committee. A great deal of effort went into screenings and studio visits, and in this case the Advisory Committee came away completely unconvinced that the two artists were making the material they were selling. The two artists now showed receipts - which was an issue - and the Advisory Committee remained unconvinced. In addition, the two artists had items for sale on their table that were not cleared for sale by the Advisory Committee. He could appreciate the

point raised by Ms. Woodward of extending the benefit of doubt to her clients; but that had been done over a great length of time through warnings that would be impossible not to understand that there was a problem. No effort was made on the part of the artists to seek clarification of the matter, or try to convince the staff or the Advisory Committee of their sincerity. Instead, there was "an almost arrogant disregard for the whole process," and that is what most bothered the Commissioner. The Commission invested the Advisory Committee with much authority and relied on the skills of its members; they testified that the material that was offered for sale was not made by Mr. Sinyakov and Ms. Ardeleanu. He wished to correct this with a suspension of their certificates.

The Commissioner went on to say that if between now and when the suspension commences Mr. Sinyakov and Ms. Ardeleanu request a re-screening to convince the Advisory Committee, he would be willing to have the two artists come back before the Program Committee, hear the testimony, and consider waiving the suspension.

Commissioner Rogers moved that it be found that Polina Ardeleanu and Valery Sinyakov had violated the street artist ordinance by offering for sale items not of their own creation (commercially manufactured cast and fabricated metal and amber jewelry) and for offering for sale items which had not been approved by the Advisory Committee, and that their certificates be suspended for a period of two months; the motion was seconded by Commissioner Freebairn-Smith.

Commissioner Rogers clarified that it would take the thorough convincing of the Advisory Committee of the two artists' ability to create the cast and fabricated metal and amber jewelry in order for the Program Committee to consider waiving the suspension.

After it was determined that the suspension would commence prior to the next Program Committee meeting, Commissioner Freebairn-Smith moved to amend the motion to stay the suspension until after the Program Committee hearing of February 12, 1997; the motion was seconded by Commissioner Rogers. The motion as amended was unanimously approved.

II HEARING AND POSSIBLE MOTION TO APPROVE REQUEST FOR CERTIFICATION OF CRAFT ITEM

Polina Ardeleanu and **Valery Sinyakov (Certificates # 4731 and # 4755).** Request for certification: cast metal and amber jewelry. Commissioner Rogers continued the item to the meeting of February 12th.

III HEARING AND POSSIBLE MOTION TO APPROVE NEW LOTTERY RULE: LAST NUMBER FOR STREET ARTIST LATE FOR LOTTERY

Street Artist Virginia Burris proposed language for a new rule providing for the issuance of a last number to any street artist arriving late to enter his/her number in the lottery or who forgets to enter his/her number. Street Artists Edward Steneck, John Shaw, and Juanita Havet expressed the need for various amendments to the language. Commissioner Rogers tabled the item and asked that Ms. Burris meet with the Lottery Committee to re-draft the language for re-submittal to the Program Committee.

IV HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL TO AMEND ORD. 41-83 (STREET ARTIST ORDINANCE), SECTION 2405(c)(3) BY INCREASING THE HEIGHT LIMIT OF STREET ARTIST DISPLAYS FROM THE PRESENT FIVE (5) FEET ABOVE ANY SIDEWALK TO SIX (6) FEET ABOVE ANY SIDEWALK

Street Artist Mike Granatt spoke about his proposal to amend the ordinance which would allow him to exhibit his sculpture pieces on a shelf five feet above the sidewalk, thereby making the display of his items exceed the present five-foot limit. This would also allow other artists an opportunity to display more items. Street Artists Margaret Granatt, Jose DaSilva, and Maria Hillius expressed support for the proposal.

Ms. Linda Mjellem, Executive Director of Union Square Association expressed her members' opposition to the proposal, and stated that her members, many of whom pay $300 per square foot, were concerned that their display windows would be blocked, that the increase could block the view of traffic by pedestrians, thereby creating a potential safety hazard, and that any changes in requirements for the street artist displays may not be consistent with the Streetscape Plan.

The Commissioners acknowledged receiving letters of opposition not only from Ms. Mjellem but also from Mr. Louis Meunier, Executive Vice President of Macy's West, Ms. Carolyn Diamond, Executive Director of Market Street Association, and Mr. Christopher Martin, General Manager of The Cannery.

Also expressing opposition to the proposal were Street Artists Alex George, Abby Ellis, Eunice Rodriguez, Leah Mazor, and John Shaw from whom the following reasons were given: a solid six-foot display would block much of the sunlight from a neighboring artist's display from 3 o'clock on; most artists would not be able to see over their six-foot display; an artist's six-foot display would block the view of his neighbor's products.

Commissioner Freebairn-Smith commented that many retailers were very sensitive to any increase in obstruction of view, including certain tree branches, and that there was not a powerful advocacy to justify adding a foot to the height of the displays. Commissioner Rogers concurred, stating that, in his experience as a landscape architect, a six-foot height of anything generally gets a reaction.

No motion was made to approve the proposal.

V HEARING AND POSSIBLE MOTION TO APPROVE ELIMINATION OF CLIFF HOUSE LOTTERY AT POINT LOBOS AND TO COMBINE CLIFF HOUSE AND FISHERMAN'S WHARF LOTTERIES INTO ONE LOTTERY TO BE HELD AT SAME TIME AND PLACE CURRENTLY HELD FOR WHARF LOTTERY

Street Artist Virginia Burris referred to a petition of over 100 street artist signatures she obtained in support of the proposal and stated that it would make the three spaces at Point Lobos more accessible to the 200 artists who use the Wharf lottery. Expressing their support were Street Artists Maria Hillius and Jose DaSilva; Mrs. Hillius suggested that the proposal be implemented for a year.

Street Artist Sharon MacDougall presented a petition of 28 signatures in opposition to the proposal and was joined by Street Artists Eunice Rodriguez, Chrys Camperlino, John Scanlon, Juanita Havet, Alex George, Toney Burkhart, Virginia Travers, Edward Steneck, and John Shaw from whom the following comments opposing the proposal were received by the Commissioners: the Cliff House Lottery has worked well for 20 years and is open to all artists; if the three spaces were put in a lottery with the other spaces, an artist's chances of obtaining one of the three Point Lobos spaces would be seriously reduced; the busloads of tourists come to the Point Lobos spaces at 9:00 a.m., the time the Wharf lottery starts - if the spaces were put into the Wharf lottery, the artists getting the Point Lobos spaces would miss a significant portion of their customers; not all artists would like to sell at Point Lobos because the weather

is often cold and tends to pit the jewelry; the people who signed Ms. Burris's petition have no experience of selling at Point Lobos; it isn't a hardship to get to the Cliff House lottery even if you come from Mill Valley or South San Francisco; artists were lobbied to sign the petition without receiving an adequate explanation of what it was about.

Commissioner Freebairn-Smith noted that very few of the 116 people who signed the petition were in attendance, whereas the preponderance of testimony came from those in opposition. No compelling argument had been received to change the Cliff House Lottery; the Commissioner was persuaded by the people who wanted it left as is.

No motion was made for approval of the proposal.

VI HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL TO ELIMINATE LEAVENWORTH STREET LOTTERY AND TO LOTTERIZE THE TEN SPACES ON LEAVENWORTH STREET (JEFFERSON TO BEACH STREETS) AS PART OF THE FISHERMAN'S WHARF LOTTERY

Program Director Lazar gave a history of the ten spaces allocated over twenty years ago by the Board of Supervisors, their use by portrait artists since then, and the Art Commission's creation by resolution in 1980 of the Leavenworth Street Lottery to assign the spaces.

Street Artist Mike Granatt, who submitted the proposal, put forth his argument that there was no provision in the street artist ordinance to reserve certain spaces for artists of a specific craft, and portrait artists were able to obtain viable spaces by participating in both the Leavenworth and the Wharf lotteries. Also in support of the proposal was Street Artist Margaret Granatt.

Street Artists Martin Butschek, Eunice Rodriguez, Gerard Pepper Cracas, Lisa Jiang, Barry Prager, and Virginia Burris expressed ooposition to the proposal for the following reasons: the spaces are sheltered from the wind and ideal for doing portraits; that side of the street was being used by portrait artists and cartoonists long before the Street Artists Program was created twenty-five years ago; every major city in the world has a special area for portrait artists like San Francisco's; the tourists look for this special area; if all the portrait artists were forced into the Wharf lottery to obtain spaces on congested thoroughfares like Beach Street, the crowds generated by the portrait

artists would add to the congestion and create problems for the other artists; the addition of all the portrait artists into the Wharf lottery would seriously impact the the existing shortage of spaces; the management of The Cannery stated in 1980 that the only reason The Cannery would tolerate the spaces was if they were used exclusively by portrait artists; a portrait artist occupying the first of the ten spaces draws the public's attention to the other nine artists who otherwise would not be readily observed on this off-the-beaten-track side street; if the first space were to be occupied by a jeweler, for example, the public's attention would be drawn to the jewelers and other artists along Jefferson Street; without portrait artists on Leavenworth Street entertaining the people who watch them sketch, the street would atrophy.

In response to Commissioner Rogers, ten portrait artists raised their hands to oppose the proposal. Street Artist Martin Butschek submitted a petition to keep the spaces for the artists. The Commissioners acknowledged also that Mr. Christopher Martin, General Manager of The Cannery, had again written to oppose the proposal.

Commissioner Freebairn-Smith commented that there was a preponderance of support to keep the Leavenworth Street Lottery. He stated that he was a proponent of the Program and felt that it was beneficial for the Program to have a group of artists benefitting from an area for their art. He acknowledged Mr. Christopher Martin as an ally of the Program. Commissioner Rogers concurred.

No motion was made to approve the proposal.

VII HEARING AND POSSIBLE MOTION TO APPROVE EXTENDED TIME PERIOD FOR AMENDMENT OF LOTTERY OCCUPANCY RULE WHICH ELIMINATED PROVISION FOR A "MARKED" (ASSIGNED) SPACE TO REMAIN VACANT UNTIL THE ASSIGNED ARTIST USES IT, AND PROVIDED FOR A LOTTERY TO BE HELD AFTER THE NOON LOTTERY TO DISTRIBUTE VACANT ASSIGNED SPACES AMONG NON-ASSIGNED ARTISTS WHO MAY OCCUPY SUCH SPACES UNTIL SUCH TIME AS THEY ARE OCCUPIED BY THE ASSIGNED ARTISTS (amendment approved by full Art Commission on May 1, 1995)

Commissioner Rogers tabled the item.

Commissioner Rogers moved to adjourn the meeting; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved. The meeting adjourned at 6:03 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar, Director
Street Artists Program

.75

SAN FRANCISCO ART COMMISSION

2/12/97

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
POPS SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

ART COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, February 12, 1997
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
FEB 06 1997
SAN FRANCISCO PUBLIC LIBRARY

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST FOR CERTIFICATION OF CRAFT ITEM**

Polina Ardeleanu and **Valery Sinyakov (Certificates # 4731 and # 4755).** Request for certification: cast and fabricated metal and amber jewelry. (continued from 1/8/97)

II **HEARING AND POSSIBLE MOTION TO WAIVE SUSPENSION OF CERTIFICATES**

Polina Ardeleanu and **Valery Sinyakov (Certificates # 4731 and # 4755).** Hearing to consider waiving suspension of certificates resulting from 1/8/97 Committee finding that the artists had offered for sale items not of their own creation and not approved by the Advisory Committee.

III **HEARING AND POSSIBLE MOTION TO APPROVE DATE OF CELEBRATION AND STREET CLOSURE FOR 25TH ANNIVERSARY OF STREET ARTISTS PROGRAM**

IV **HEARING AND POSSIBLE MOTION TO APPROVE NAMES OF STREET ARTISTS TO SERVE ON "25TH ANNIVERSARY COMMITTEE"**

V **PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM**

VI **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VII **ADJOURNMENT**

CITY AND COUNTY OF SAN FRANCISCO

ACCESSIBILITY INFORMATION

*Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market, one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415)554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHIRE ORDINANCE TASK FORCE AT 554-~~6075~~. 4551.

F
10.75
12/97

S F
A C
SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
POPS SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

ART COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

DOCUMENTS DEPT.
MAR 04 1997
SAN FRANCISCO PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

February 12, 1997
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith

Commissioner absent: Dede Wilsey

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, called the meeting to order at 3:00 p.m.

I **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST FOR CERTIFICATION OF CRAFT ITEM**

Polina Ardeleanu and **Valery Sinyakov (Certificates # 4731** and **4755).** Request for certification: cast and fabricated metal and amber jewelry. (continued from 1/8/97)

Ms. Ardeleanu and Mr. Sinyakov were not present. The Committee reviewed the findings contained in the minutes of the Advisory Committee of Street Artists and Craftsmen Examiners regarding the Advisory Committee's February 6th visit to the two artists' studio. The purpose of the studio visit was to verify whether the artists created the cast and fabricated metal and amber jewelry they had been found selling. According to the Advisory Committee's minutes: there was "a discrepancy" between the artists' inventory of 65 medium to large finished pieces and "only about 7 pieces in progress." The Advisory Committee members noted that "the volume of work" they saw did not "match the studio time and raw materials" observed: "We are not seeing production techniques." Furthermore, the artists' tool stamps did not match the stamp imprints on their jewelry: "On a display tray of 25 pendants & pins, over half also bear stamps NOT matching the ones they own." The Advisory Committee noted also that one item, a snail pendant, which Mr. Sinyakov was asked to reproduce was "much thinner than the snail" pendant he had been offering for sale. The Committee concluded that the "volume of inventory doesn't match" the observed "work ability," and "we don't recommend licensing in either fabrication or casting."

The Commissioners asked the Program Director to convey

CITY AND COUNTY OF SAN FRANCISCO

their appreciation to the Advisory Committee members for their thorough investigation which had comprised two separate studio visits as well as an examination-screening at the Art Commission.

No motion was made on the request.

II HEARING AND POSSIBLE MOTION TO WAIVE SUSPENSION OF CERTIFICATES

Polina Ardeleanu and **Valery Sinyakov (Certificates # 4731 and # 4755).** Hearing to consider waiving suspension of certificates resulting from 1/8/97 Committee finding that the artists had offered for sale items not of their own creation and not approved by the Advisory Committee.

Ms. Ardeleanu and Mr. Sinyakov were not present.

Commissioner Freebairn-Smith expressed his appreciation for the letters, relative to this matter, sent by former Street Artist John Bass and Street Artist Eunice Rodriguez.

No motion was made.

III HEARING AND POSSIBLE MOTION TO APPROVE DATE OF CELEBRATION AND STREET CLOSURE FOR 25TH ANNIVERSARY OF STREET ARTISTS PROGRAM

Program Director Lazar reported on the responses he received from the store merchants he spoke with in reference to the possible closure of Beach Street, Hyde to Larkin Streets, for a street fair-type celebration of the Program's 25th anniversary, with street artists selling in the street among performers and food vendors on a Saturday or Sunday in August or September. Of the 24 he queried (including the 2 main business complexes - Ghirardelli Square and The Cannery - and all 14 stores on the block proposed for closure), 17 said "yes" to the idea, 2 were undecided, and 5 gave no response. Of the 14 stores (including art galleries, clothing stores, and camera stores) on the block proposed for closure, 8 said "yes," 2 were undecided, and 4 gave no response. The Program received the endorsement of the Executive Secretary of the Fisherman's Wharf Merchants Association.

The Program Director went on to say that the stores favored the idea as an event whose publicity and crowds would benefit both the stores and the street artists. Some of the

merchants expressed their wish that the street closure not take place until mid-September: to do so in July or August would create intolerable traffic congestion on the adjacent blocks at the Wharf; secondly, a well-publicized event could attract much-needed customers in September.

Commissioner Freebairn-Smith moved to authorize the 25th Anniversary Committee to consider for approval either September 13 or 14, 1997 or an alternate date for the street closure-celebration of the 25th anniversary of the Street Artists Program; the motion was seconded by Commissioner Rogers and unanimously approved.

Commissioner Freebairn-Smith asked that the minutes reflect the Committee's view that the Program Director made a wise management decision to poll the merchants of the impacted area.

IV HEARING AND POSSIBLE MOTION TO APPROVE NAMES OF STREET ARTISTS TO SERVE ON "25TH ANNIVERSARY COMMITTEE"

The Commissioners acknowledged that letters had been sent to the Program's 430 street artists inviting those interested to express in writing their reasons for wishing to serve on the Committee. The Program received 7 responses.

Commissioner Rogers moved that there be created an Ad Hoc Committee for the 25th Anniversary of the Street Artists Program constituted by Street Artists Nancy Evans, Harvey Koslow, Randall Larson, Theresa Mabalatan, Sandra O'Brien, Tad Sky, Virginia Travers and Commissioners Rod Freebairn-Smith, Emery Rogers, and Dede Wilsey as ex-officio members to meet at times and places of the Committee's choosing, and that it be recommended that the Ad Hoc Committee elect Sandra O'Brien as chairperson; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

V PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES

After receiving no public comment, Commissioner Rogers moved to adjourn the meeting; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved. The meeting adjourned at 3:45 p.m.

Respectfully submitted:
Howard Lazar
Howard Lazar, Director
Street Artists Program

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
OPS SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

SF
A70.75
#2
3/12/97

DOCUMENTS DEPT.
MAR 07 1997
SAN FRANCISCO PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, March 12, 1997
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE AMENDMENT TO RESOLUTION NO. 1209-96-561 TO REMOVE FROM THE REGULAR STREET ARTIST LOTTERY SPACES USED/ADVERSELY AFFECTED BY FILM COMPANIES AND PHOTOGRAPHERS AND TO PLACE SUCH SPACES INTO A SEPARATE LOTTERY OPEN TO ALL STREET ARTISTS INCLUDING LOTTERY COMMITTEE MEMBERS AND HELPERS WITH THE EXCEPTION OF ANY HELPER RECEIVING THE LAST NUMBER IN THE PREVIOUS REGULAR LOTTERY WHO MAY USE HELPERSHIP PRIORITY IN SELECTING SUCH USED/AFFECTED SPACES, AND TO PROHIBIT LOTTERY COMMITTEE MEMBERS AND OTHER HELPERS FROM RECEIVING PRIORITY IN SELECTING SUCH SPACES; LOTTERY FOR SUCH SPACES TO OCCUR PRIOR TO REGULAR (9:00 A.M.) OR SECONDARY (9:30 A.M.) LOTTERIES**

II **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL TO PLACE THE DOWNTOWN AND WHARF SPACES INTO ONE LOTTERY**

III **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL TO PLACE LEAVENWORTH STREET SPACES IN MAIN WHARF LOTTERY AND TO REQUIRE PORTRAIT ARTISTS/CARTOONISTS/FUNSKETCHERS TO USE THEIR MAIN LOTTERY NUMBERS TO OBTAIN LEAVENWORTH SPACES**

IV **PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM**

V **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VI **ADJOURNMENT**

CITY AND COUNTY OF SAN FRANCISCO

25 VAN NESS AVE. SUITE 240, SAN FRANCISCO, CA. 94102 TEL. 415.252.2590 FAX 415.252.2595

ACCESSIBILITY INFORMATION

*Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market, one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415)554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHIRE ORDINANCE TASK FORCE AT 554-4851

Dept #41

SAN FRANCISCO ART COMMISSION

DOCUMENTS DEP
MAR 21 1997
SAN FRANCISCO
PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, March 12, 1997
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith

Commissioner absent: Dede Wilsey

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar

Commissioner Rogers, Chair, called the meeting to order at 3:20 p.m.

I **HEARING AND POSSIBLE MOTION TO APPROVE AMENDMENT TO RESOLUTION NO. 1209-96-561 TO REMOVE FROM THE REGULAR STREET ARTIST LOTTERY SPACES USED/ADVERSELY AFFECTED BY FILM COMPANIES AND PHOTOGRAPHERS AND TO PLACE SUCH SPACES INTO A SEPARATE LOTTERY OPEN TO ALL STREET ARTISTS INCLUDING LOTTERY COMMITTEE MEMBERS AND HELPERS WITH THE EXCEPTION OF ANY HELPER RECEIVING THE LAST NUMBER IN THE PREVIOUS REGULAR LOTTERY WHO MAY USE HELPERSHIP PRIORITY IN SELECTING SUCH USED/AFFECTED SPACES, AND TO PROHIBIT LOTTERY COMMITTEE MEMBERS AND OTHER HELPERS FROM RECEIVING PRIORITY IN SELECTING SUCH SPACES; LOTTERY FOR SUCH SPACES TO OCCUR PRIOR TO REGULAR (9:00 A.M.) OR SECONDARY (9:30 A.M.) LOTTERIES**

The Program Director submitted a written proposal from Street Artists Bill Clark, Virginia Travers, and Valerie Bergez which the Program received shortly after a recent incident in which a lottery committee member and selected lottery helpers, exercising an existing lottery rule allowing them priority above all artists in choosing spaces, selected the "movie compensation" spaces that had been intended to be placed in the lottery for all artists. The proposal attempted to correct this inequity, in keeping with the Art Commission's intent to give all artists at a lottery the opportunity to compete for such spaces.

Street Artists Matt Summers, Robert Clark, and Eunice Rodriguez urged that the proposal be amended to not allow any helper - not even a helper who received the last number in the previous lottery - to have priority in selecting "movie compensation" spaces.

Street Artists Gerard Pepper Cracas and Matt Summers urged

S F A C
PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
OPS SYMPHONY CONCERTS
PUBLIC ART
STREET ARTISTS LICENSES SUITE 70 415.252.2581
T COMMISSION GALLERY 401 VAN NESS AVENUE 415.554.6080
CITY AND COUNTY OF SAN FRANCISCO

that the proposal be amended to provide that the lottery for "movie compensation" spaces start at 9:00 a.m., the time of the regular lottery, or at 9:30 a.m., the time of the secondary lottery, to ensure the presence of all artists who would be showing up for the regular or secondary lottery of the day.

Commissioner Freebairn-Smith moved that the proposal be approved and amended by deleting the phrase "with the exception of any helper receiving the last number in the previous regular lottery who may use helpership priority in selecting such used/affected spaces," by deleting the word "other" before "helpers," and by deleting the phrase "prior to regular (9:00 a.m.) or secondary (9:30 a.m.) lotteries" and replacing it with the phrase "at 9:00 a.m. prior to regular lottery or at 9:30 a.m. prior to secondary lottery," to read in its entirety as follows:

> Motion to approve amendment to Resolution No. 1209-96-561 to remove from the regular street artist lottery spaces used/adversely affected by film companies and photographers and to place such spaces into a separate lottery open to all street artists including Lottery Committee members and helpers, and to prohibit Lottery Committee members and helpers from receiving priority in selecting such spaces; lottery for such spaces to occur at 9:00 a.m. prior to regular lottery or at 9:30 a.m. prior to secondary lottery.

The motion was seconded by Commissioner Rogers and unanimously approved.

II HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL TO PLACE THE DOWNTOWN AND WHARF SPACES INTO ONE LOTTERY

Program Director Lazar submitted a written proposal from Street Artists Martin Butschek and Gerard Pepper Cracas.

The following Street Artists expressed their support of the proposal: Martin Butschek, Pepper Cracas, Mark Monsarrat, Kathy Hallinan, John Cracas, Robert Clark. These people made the following points:

1) The present lottery system for separate areas is unfair; there should be one lottery and one sign-up sheet for all the spaces, including the Cliff House spaces.

2) The proposal should be tried for a six-month period.

3) The proposal would benefit single (non-family unit) certificate-holders.

4) The present system allows for a monopolization by some 100 artists for both the Downtown and Wharf spaces.

5) Combining the lotteries would reduce the number of days the artists spend in going to the lotteries.

6) It would be more efficient for Lottery Committee members to lotterize all spaces at once.

7) Combining the lotteries would eliminate the need for three extra lottery helpers who now have priority in choosing spaces; therefore, there would be three additional prime spaces offered to everyone in the lottery.

The following Street Artists expressed their opposition to the proposal: Eunice Rodriguez, Sharon MacDougall, Vivian Lee, Matt Summers, Debbie Hong, Gary Freed, Gail Mitchell-Wilson, Linda Freed. These people made the following points:

1) Many artists presently take too much time in studying the spaces sign-up sheet, keeping others waiting; combining the lotteries would increase such time delays especially during the Christmas season with large numbers of artists using the Downtown lottery.

2) It would be a bad idea because it would be cumbersome and take at least thirty minutes longer.

3) Most artists do not want a "gigantic" lottery; at present, all artists are eligible to participate in both lotteries.

4) The Downtown lottery during the Christmas season already takes too much time; combining it with Wharf spaces would add more time to it.

5) Artists have adjusted their personal life to the present lottery system; changing the lottery times would have significant repercussions on parents who would have to readjust their child-care hours.

6) Combining the lotteries would not necessarily make

it more efficient for Lottery Committee members because, as it is now, Lottery members do not always stay for the duration of their lotteries and have helpers finish the lotteries for them.

7) It would be a hardship for artists who do not have cars and would have a difficult time trying to attend a lottery every day.

Street Artist Therese Koller proposed that the Program Director retain the number sheets and sign-up sheets of both lotteries for the next month for an assessment of lottery attendance. Street Artists Matt Summers and Gail Mitchell-Wilson expressed that a present assessment of usage of Downtown spaces would not be fair, as most Downtown artists do not come out until summer.

Street Artist Robert Clark expressed his feelings of upset over seeing the issue polarize street artists into referring to themselves as "Downtown people" or "Wharf people." He had worked hard in obtaining a voter-approved program for all street artists and not a dual system that would divide people. The artists should work together. He asked the Commissioners to give the issue more time for consideration and to allow the artists to send their written opinions to the Program Director.

Commissioner Rogers concurred and stated that he himself had attended the lottery several times and had seen that at present the lottery takes a considerable amount of time.

Commissioner Freebairn-Smith stated that, given the testimony received, he had not yet ascertained the existence of a group of artists suffering under the present system or a genuine advantage in changing the system.

Commissioner Rogers continued the item until the meeting of May 14th to enable the artists to submit written opinions to the Program Director for referral to the Committee.

III HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL TO PLACE LEAVENWORTH STREET SPACES IN MAIN WHARF LOTTERY AND TO REQUIRE PORTRAIT ARTISTS/CARTOONISTS/FUNSKETCHERS TO USE THEIR MAIN LOTTERY NUMBERS TO OBTAIN LEAVENWORTH SPACES

The Program Director submitted a proposal from Street Artist Robert Clark which, he said, addressed the issue of the ability of portrait artists/funsketchers to enter not only

their own Leavenworth Street Lottery but the other lotteries and the inability of non-portrait artists/funsketchers to enter the Leavenworth Street Lottery. According to the proposal, this has resulted in portrait artists/funsketchers entering both the Saturday Leavenworth lottery and the Saturday main Wharf lottery, using their Leavenworth number to sell in a Leavenworth space on Saturday, and saving their main Wharf number to choose a space on Jefferson Street or Beach Street on Sunday which prevents non-portrait artists/funsketchers with higher main Wharf numbers from selling in such prime locations. In addition, the proposal maintained that the situation was particularly a hardship for those craftspeople who must produce their craft in their studio and depend on the possibility of obtaining a prime space on the weekend - in contrast with portrait artists/funsketchers whose craft allows them to sell seven days a week. While the proposal did not advocate that non-portrait artists/funsketchers have the ability to sell in Leavenworth spaces, it attempted to remedy the inequity by requiring portrait artists/funsketchers to use main Wharf lottery numbers to obtain Leavenworth spaces.

The following artists expressed their support of the proposal: Robert Clark, Mark Monsarrat, Kathy Hallinan, John Cracas, Eunice Rodriguez, Gary Freed, Mike Granatt. These people made the following points:

1) Of all the Program's lotteries, the Leavenworth is the only one which restricts itself to artists of a certain craft; these artists, in turn, by saving their main Wharf lottery numbers, "bump" other artists out of an opportunity to sell in a good space at the Wharf.

2) As an issue of fairness, the Leavenworth spaces as well as all the spaces should be put into one lottery.

3) While non-portrait artists cannot get into the Leavenworth portrait artist lottery, the non-portrait artists have to compete with the portrait artists in the main Wharf lottery in getting spaces.

4) When the Leavenworth Lottery was established in 1980, there were only half a dozen portrait artists to warrant their own exclusive lottery for spaces that did not attract the other artists; now, however, there are about twenty-five portrait artists/funsketchers, and that is why they are "overlapping" into the main Wharf lottery, competing with the other artists for the other spaces.

5) The proposal would be an equitable solution.

The following artists expressed opposition to the proposal: Martin Butschek, Pepper Cracas, You Shan Tang, Barry Prager, Brian Hopper, Lisa Jiang, Therese Koller. These people made the following points:

1) The ten Leavenworth spaces should be left alone for the exclusive use of the portrait artists/funsketchers; if the spaces were opened up for other artists to use, General Manager Christopher Martin of The Cannery would oppose this, and the artists might lose their ten spaces.

2) Unless all spaces are put into one lottery, the Leavenworth spaces should not be singled out and put into the Wharf lottery.

3) There are non-portrait artists who themselves have advantages over other artists because they belong to three- or four-member family units who have more opportunity than single artists in obtaining a good space.

4) The authors of the proposal are a family unit of two licenses and therefore have twice as good a chance as a single artist in obtaining a space; would they be willing to relinquish one of their licenses?

5) Since artists are allowed to sign in for a space at the Cliff House lottery and then enter the Wharf lottery to save that number for the following day, why can't the Leavenworth artists continue to do the same? Also, the Cliff House lottery is "exclusive" in that it is across town which makes it a hardship to attend for people without cars.

The Commissioners asked the Program Director for a recommendation. Mr. Lazar recommended the proposal as a measure to correct an inequitable situation. He stressed two main points: (1) The Leavenworth spaces remained, by the Commission's choice, for the exclusive use of the portrait artists; and (2) the portrait artists would incur no hardship by being required to obtain their Leavenworth spaces, as they do now for other spaces, in the main Wharf lottery.

Commissioner Freebairn-Smith stated that he agreed with Mr. Clark that the more the Commission could do in purifying the lottery procedures would be the fair and right step to make.

Commissioner Rogers stated that, early this year, his Committee heard a request to open the Leavenworth spaces to all artists, and he remained convinced that the decision to not do so was the right one. The proposal heard now dealt with a fairness issue confined to the Wharf area. While he could understand both sides of the issue, he was persuaded that it would be fair to put the lottery activity for the Leavenworth spaces into the main Wharf lottery.

Commissioner Freebairn-Smith moved that the Leavenworth Street spaces be placed in the main Wharf lottery and that portrait artists/cartoonists/funsketchers be required to use their main Wharf lottery numbers to obtain Leavenworth Street spaces. The motion was seconded by Commissioner Rogers and unanimously approved.

Commissioner Rogers moved to adjourn the meeting; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved. The meeting adjourned at 4:57 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

SF
A70.75
#2
4/9/97

SAN FRANCISCO ART COMMISSION

DOCUMENTS DEPT.
MAR 31 1997
SAN FRANCISCO
PUBLIC LIBRARY

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
LTURAL EQUITY GRANTS
S SYMPHONY CONCERTS
PUBLIC ART

TREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
01 VAN NESS AVENUE
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, April 9, 1997
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES

A. **Hubert Emerson Ortis - Certificate # 4656.** Alleged violations: (1) Displaying items during period of certificate suspension; (2) Having items displayed for sale by a salesperson.

B. **Michel Verton - Certificate # 2509.** Alleged violations: (1) Displaying items not certified by Art Commission (second offense); (2) Selling in a location not designated by Board of Supervisors (second offense).

II PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM

III PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

IV ADJOURNMENT

CITY AND COUNTY OF
SAN FRANCISCO

25 VAN NESS AVE. SUITE 240. SAN FRANCISCO, CA. 94102 TEL. 415.252.2590 FAX 415.252.2595

ACCESSIBILITY INFORMATION

*Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415)554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHIRE ORDINANCE TASK FORCE AT 554-4851

Government Documents
Section
Main Library

S F A C

SAN FRANCISCO ART COMMISSION

DOCUMENTS DEPT.

APR 23 1997

SAN FRANCISCO
PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

April 9, 1997
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, William Meyer, Dugald Stermer, William Villa

Commissioners absent: none

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, called the meeting to order at 3:20 p.m. and welcomed Commissioners Meyer, Stermer, and Villa to the Committee. Commissioner Rogers encouraged all Commissioners to meet with staff at Fisherman's Wharf and observe the operation of the street artists' Saturday lottery in assigning spaces; this would give the Commissioners first-hand background information for dealing with the upcoming proposals for amending the lottery rules and other issues.

I HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES

A. Hubert Emerson Ortis - Certificate # 4656. Alleged violations: (1) Displaying items during period of certificate suspension; (2) Having items displayed for sale by a salesperson. Program Director Lazar informed the Committee that Mr. Ortis's certificate had been suspended from February 2 - 22, 1997, and that, prior to this, he had been sent a letter from Commissioner Rogers warning him that if he were to sell during the suspension period, "a more severe penalty up to revocation will be considered" by the Committee. In addition, it was recorded in the Committee's November 13, 1996 minutes that Commissioner Freebairn-Smith stated that if another hearing were to result with Mr. Ortis, "the Committee will not be inclined to exercise leniency." According to the Program Director, the office received a complaint that on Sunday, February 9, 1997, Mr. Ortis violated his suspension by having a female salesperson displaying his jewelry while he played his music nearby. Then, on February 13th, the Program Director and the Certification Clerk observed Mr. Ortis on Jefferson Street playing his music against The Cannery building while his open display of jewelry was set up a

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

CITY AND COUNTY OF SAN FRANCISCO

25 VAN NESS AVE. SUITE 240, SAN FRANCISCO, CA. 94102 TEL. 415.252.2590 FAX 415.252.2595

few feet away from him curbside. The staff counted 21 earwrap items on the display and informed Mr. Ortis that he was in violation of his suspension.

Certification Clerk Worthy informed the Commissioners that on the day of this incident she received a telephone complaint against Mr. Ortis and met the Program Director downtown and travelled with him to the Wharf to observe Mr. Ortis. From the bus they observed Mr. Ortis performing against The Cannery wall with his table, across from him, displaying his jewelry pieces. They went directly to Mr. Ortis's table and noted that the earwrap pieces looked like the ones Mr. Ortis is authorized to sell. The items were on display in a non-designated space and it was during Mr. Ortis's suspension period. Mr. Ortis approached them, told them that the suspension was a hardship for him and that he needed to make a living.

Program Director Lazar stated that, when they spoke with him, Mr. Ortis said his attorney had told him that he could sell during the suspension period if he were outside of a legal street artist space as this would not be within the jurisdiction of the street artist ordinance. The Program Director told him that that was not his understanding in light of a City Attorney letter of 1983 regarding the Art Commission's jurisdiction to suspend or revoke a street artist certificate, and that unless Mr. Ortis held a Peddler's License issued by the Police for his activity in a particular (non-street artist) location, he was in violation of the street artist ordinance. The Program Director also invited Mr. Ortis to have his attorney call him; to this date, no such call was received.

With regard to the first incident, Street Artist Edward Steneck stated that, as a member of the Lottery Committee, he ran the lottery on Sunday, February 9th, and was approached later that morning by a Street Artist named "Leah" who told him that Mr. Ortis and his "current wife" were selling on Jefferson Street, that she saw one of Ortis's earrings on a female customer who, upon questioning, told her that she bought it from someone on Jefferson Street, whereupon "Leah" asked Mr. Steneck to see if Mr. Ortis was selling. Mr. Steneck went to Jefferson Street and observed Mr. Ortis set up playing his piano in an alcove of the wall of The Cannery. He was not selling anything. Mr. Steneck also observed a woman whom he identified as Mr. Ortis's "current wife or girlfiend" who was eight to nine feet away from Ortis with a display of Ortis's craft.

Mr. Steneck told both of them that someone had complained that he or she was selling and that while he, Steneck, could see that Mr. Ortis wasn't selling, he should be careful not to sell anything.

Upon questioning by the Program Director, Mr. Steneck stated that the items on the table which he noticed "peripherally" appeared to be "the kind of thing that" Ortis "does so well." He could not say, however, that they were exactly his items.

Upon questioning by Commissioner Rogers, Mr. Steneck stated that there was no other time during Mr. Ortis's suspension period that he saw him set up.

It was noted that the person who had submitted a complaint in writing about the February 9th incident was not present.

In reference to the staff-observed February 13th incident, the Program Director stated that there was no doubt in his mind nor his assistant's mind that the items they had observed were Mr. Ortis's items, and that Mr. Ortis had admitted they were his items when he informed them that his attorney said it would be alright for him to sell in that it would not infringe upon the street artist ordinance.

Mr. Ortis stated to the Commissioners that when he spoke with his lawyer about how he could continue to earn an income, he was told that if he did not use his street artist certificate nor sell in a designated street artist area, it would not be a misconduct against the Street Artists Program, but it would be a misconduct toward the Police who could cite him. Therefore, he stayed "totally away from the street artists' designated area" and played his music and displayed his work.

Mr. Ortis went on to say that he was "one of the only street artists out there" who "sits on the street and makes" his items "by hand," and that he had frequently made reports to the Program Director about street artist activities, and that he, Ortis, was the recipient of selective enforcement. He needed to make "an honest living" and was out of the Program's jurisdiction because he had been in a non-designated area.

Mr. Ortis further stated that the person who made the complaint against him was Leah Mazor, a person to whom he

gave authority to make his design. He now had another "girlfriend" and she also made the items; that day (February 9th) she asked him if she could go out and sell her product, and Mr. Ortis told her she would be taking a chance of getting caught by the Police. When Mr. Steneck saw him, he told him to talk to her, and after he did so, she closed up her display. He reiterated that he could "not tell her to close the box up and go home, especially if she makes her own stuff."

In response to a question by Commissioner Rogers, Mr. Ortis stated that his attorney did not call the Program Director because he could not afford to pay her.

The Program Director stated that Mr. Ortis received a letter from the Program Director giving him the date of his suspension period and also received a letter from Commissioner Rogers warning him against selling during the suspension. It was only reasonable that, if Mr. Ortis had received legal advice that he could sell, he would have informed the Art Commission of such advice; had he done so, the Program Director would have asked for clarification from the City Attorney. In lieu of this, the Program Director's understanding rested on the City Attorney's 1983 letter clarifying the Commission's jurisdiction.

In response to a question by Commissioner Meyer, Mr. Ortis stated that the items that his friend was selling were not made by him but by her after watching him make similar items, and that she decided to sell them because "it's a woman's lib thing ... these days you can't tell them what to do." He went on to say that he was not a thief or a bandit, and that all he was trying to do was to "feed five kids."

The Commissioners ascertained that the Commission's standard penalty for a first offense of displaying items during a period of certificate suspension is two months suspension of certificate.

Commissioner Meyer moved that the City Attorney be requested to clarify whether a "loophole" exists whereby a street artist may be entitled to sell his/her wares in public places during a period of certificate suspension if the artist is not selling in a designated street artist space and whether a "loophole" exists whereby a friend or an associate of the suspended artist may be entitled to sell similar wares; the motion was seconded by Commissioner

Villa and unanimously approved.

Commissioner Rogers stated that Mr. Ortis's hearing would be continued to the following month's Committee meeting pending receipt of the City Attorney's clarification.

Mr. Ortis stated that the suspension he received from the Committee's hearing in November was an illegal suspension which put him in a situation causing him to violate the suspension, and that the Commissioners had penalized him for arguing with a "metermaid." Commissioner Rogers responded that if Mr. Ortis had felt that the Commissioners had made an incorrect decision, his recource had been to appeal to the Board of Appeals.

B. **Michel Verton - Certificate # 2509.** Alleged violations: (1) Displaying items not certified by Art Commission (second offense); (2) Selling in a location not designated by Board of Supervisors (second offense). Program Director Lazar stated that Mr. Verton was cited on December 22, 1996 by Officer Fred Crisp, one of the officers hired by the Art Commission through the Police Department's Special Law Enforcement Services to enforce the street artist ordinance in the Downtown-Union Square area during the winter holiday season. The incident occurred just seven months after Mr. Verton received from the Commission a standard-penalty suspension of two months and three weeks for having sold items not certified by the Commission and for having sold in a non-designated location.

Officer Fred Crisp stated that at 4:30 p.m. on December 22nd he saw Mr. Verton standing on the northeast corner of Stockton and O'Farrell Streets, near the flower stand, holding a bag of fabric worms "obviously for sale." The officer cited him under 869 MPC (peddling without a permit).

In response to a question by Commissioner Rogers, the Program Director stated that the City Attorney's office, in 1983, clarified that it is within the Art Commission's jurisdiction to suspend or revoke the certificate of a street artist for displaying items not made by the artist in a location not designated for street artists. In reference to the present case, a second offense for selling in a non-designated location, according to the Commission's standard penalties, warranted a six-week suspension while a second offense for selling items not certified by the Commission warranted revocation.

Mr. Verton stated that the location for which he was cited was incorrect, that he wasn't selling at all, and there were no prices visible.

Officer Crisp stated that he saw Mr. Verton standing with the items in his hands; it "was apparent to" him "that they were offered for sale," though he did not hear him and there was no one nearby engaged in a transaction.

Mr. Verton said the only thing the officer saw was a basket with some of the worms; the officer did not see him selling and could not have known why he was there. The citation caused him to have to drive 140 miles to defend himself, and the judge dismissed the citation.

Commissioner Freebairn-Smith stated that this case as well as the other case heard at this meeting were examples of the kind that "moved" him, when he began sitting on the Committee, to be very cautious and lenient; but the disappointment that other street artists have expressed when the Commissioners do not take <u>them</u> into consideration, and when the artists do not take each other into consideration, was an aspect that weighed on the Committee's decisions.

Commissioner Rogers stated that it was clear to him that Mr. Verton was attempting to sell his items on the street, that if the officer, who is experienced in observing this type of activity, issued Mr. Verton a citation, the officer had reason to believe that Mr. Verton was attempting to sell the fabric worms.

Officer Crisp stated that at the time he issued the citation Mr. Verton did not protest that he was not selling the items.

Program Director Lazar stated that when he sent Mr. Verton a warning the year before, in December, 1995, ten days after ther Police had confiscated Mr. Verton's unlicensed "wurli-toys," the warning was for his selling uncertified "commercially manufactured green worm toys in containers." The warning had specified the merchandise and had informed Mr. Verton that if he continued to sell uncertified items, he could receive for a first offense a two-month suspension and for a second offense a revocation of his certificate.

Commissioner Rogers requested Mr. Lazar for a staff recommendation in lieu of a revocation. The Program Director

recommended that the suspension be deferred to the winter holiday season, as Mr. Verton's activities have, for the past two such seasons, warranted the attention of the Police who are paid by the Art Commission to stop such activities.

Commissioner Stermer moved that Michel Verton be found in violation of the street artist ordinance for displaying items not certified by the Art Commission, second offense, and for selling in a location not designated by the Board of Supervisors, second offense, and that Mr. Verton's certificate be suspended for a period of one (1) month for the month of December, 1997; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

II PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM

Program Director Lazar reported on the progress of the Program's 25th anniversary project, the dynamic efforts of the Anniversary Committee, and the recent mailout to the Program's 400 street artists inviting them to submit entries for the bus shelter poster competition. The entries will be due on May 15th and will be judged by the Anniversary Committee and submitted for approval to the Art Commission in June. Fifty posters will be printed; in addition to the Market Street shelters, Outdoor Systems is donating 20 extra shelters around town for the posters. The posters will go up July 21st and stay up throughout the summer and through the event itself, September 20th. The next step for the Anniversary Committee is to draw a plan of artists' displays within the closed Beach Street, for submittal to the Department of Parking and Traffic.

Mr. Lazar thanked Commissioner Freebairn-Smith for his taking of photos of Beach Street for the Anniversary Committee.

Commissioner Rogers requested his fellow Commissioners of the Program Committee to serve as ex-officio members of the Anniversary Committee.

Discussion ensued on the necessity for the Commissioners to contact members of the press to cover the event.

There being no further business, Commissioner Rogers adjourned the meeting at 4:45 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar, Director
Street Artists Program

SF
A70.75
#2
5/14/97

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
OPS SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, May 14, 1997
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
MAY 07 1997
SAN FRANCISCO PUBLIC LIBRARY

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES**

A. **Hubert Emerson Ortis - Certificate # 4656.** Alleged violations: (1) Displaying items during period of certificate suspension; (2) Having items displayed for sale by a salesperson. (hearing continued from 4/9/97)

II **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL TO PLACE THE DOWNTOWN AND WHARF SPACES INTO ONE LOTTERY** (hearing continued from 3/12/97)

III **PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM**

IV **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

IV **ADJOURNMENT**

CITY AND COUNTY OF SAN FRANCISCO

25 VAN NESS AVE. SUITE 240. SAN FRANCISCO, CA. 94102 TEL. 415.252.2590 FAX 415.252.2595

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

Govt Info Ctr
5th floor
#41

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
PS SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

DOCUMENTS DEPT.
MAY 27 1997
SAN FRANCISCO PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

May 14, 1997
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, William Meyer, Dugald Stermer, William Villa

Commissioners absent: none

Staff present: Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, called the meeting to order at 3:05 p.m.

I **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL TO PLACE THE DOWNTOWN AND WHARF SPACES INTO ONE LOTTERY** (hearing continued from 3/12/97)

The following street artists spoke against the proposal: Gary Freed*, Eunice Rodriguez, Linda Pedersen, E. J. Khazzoom, Virginia Travers, Marvin Kirkland, Viva Amsel, Dolores Kalom, Sharon MacDougall, Edward Steneck*, Gail Mitchell, John Bass (former street artist), Jim Billy, Linda Freed, Michael Lyons. Their major comments were as follows:

1) The present lottery system has worked well for over twenty years; therefore, why change it?

2) The artists supporting the proposal were doing so as a retaliation for having the Leavenworth Street Lottery abolished.

3) Combining the Wharf and Downtown Lotteries will take too long for those artists wishing to obtain a Downtown space, and this will especially be a hardship for those who have to take public transportation to get to Downtown.

4) Arriving Downtown too late will cause some artists to miss a major portion of their business day.

5) Combining the lotteries will make for a a two-and-a-half-hour sign-in at a Saturday lottery, and "Downtowners" will not arrive Downtown until 11:30 a.m. or 12:00 which,

CITY AND COUNTY OF SAN FRANCISCO

* Lottery Committee Member

in turn, will violate the rule that an artist has to be set up to sell by 12:00 noon.

6) This will also interfere with the implementation of the noontime review of spaces (to see which ones are available for assignment): how could a lottery worker at noontime be both at the Wharf and Downtown to do this?

7) The present system allows the most opportunities throughout the week for an artist to choose where to sell.

8) Those who were for the proposal were not restricted from exercising their opportunities to find good spaces Downtown; instead, they have chosen to not use such options.

9) For a Lottery Committee member, a typical Saturday Wharf lottery takes an hour to run, then the Downtown Mini Lottery takes a half hour, returning the lottery materials to storage takes another half hour, and doing the "noon walk" to verify the occupants of the spaces also takes a half hour - all of which already eats up much of the Lottery member's selling time; if the Wharf and Downtown Lotteries were combined, there will be at least thirty more people in the lottery and this will take an additional half hour, leaving practically no time for the Lottery member to set up; there will be difficulty in finding street artists to join the Lottery Committee.

10) The proponents have yet to produce one advantage of combining the lotteries.

11) Those artists who rely on public transportation are already "handicapped" by having to take the time to go to the Wharf for their Downtown Lottery: why delay them further by having them wait out an enlarged lottery in order to get their Downtown spaces?

12) If the proposal was so good, why didn't many proponents show up to speak for it?

The following street artist spoke for the proposal: John Cracas. His major comments were as follows:

1) The Downtown artists have an advantage by playing both lotteries because at the Friday Main Downtown Lottery they can obtain and save a number to use for the following day while obtaining a Downtown space on Friday by using the unofficial "mini-mini" lottery, then on Saturday use

the number they saved from Friday to obtain a prime space at the Wharf, and on Sunday "bump" him (Mr. Cracas) "off" before he can get a space.

2) Regarding the time issue, the artists already waste time coming to a lottery to get a number to use the following day; if the lotteries were combined the artists would have to show up only one time to obtain their space, and this, because of its efficiency, would take less time.

3) There would be one lottery on Saturday for every space.

4) Lottery Committee members frequently exchange lottery days for their own advantages; sometimes they don't show up to run their lotteries, and artists, like Mr. Cracas, end up running the lotteries without getting the compensation of a free space as is awarded to the Lottery members.

5) There are 16 prime spaces a week that are reserved for Committee members and lottery helpers before the other artists are allowed to choose spaces; this would be eliminated by combining the lotteries and allowing everyone to choose a space before mini numbers are used.

6) The opponents have an advantage and do not want to lose it; he himself had an advantage when the Leavenworth Lottery was in existence, and now he is unable to get a space while others are able to do so under the present system.

7) A lot of people for the proposal did not show up to speak because they were intimidated by the opponents.

8) The present system of lotteries taking place at different times is confusing to new certificateholders.

Commissioner Stermer acknowledged the Committee's having received a preponderance of letters from street artists opposed to combining the lotteries (11 letters opposed vs. 1 letter for it) and said this should be considered as evidence against considering to change the system.

Commissioner Rogers stated that he was persuaded by Mr. Cracas's comment that 16 spaces might be made available by combining the lotteries but that other points made persuaded him to leave the system as it was. In addition,

there was an "entrepreneurial aspect" of the present system which he appreciated and would be retained with the present system.

Commissioner Rogers called for a motion to combine the Downtown and Wharf spaces into one lottery. No motion was made.

II HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE AND POSSIBLE MOTIONS TO SUSPEND OR REVOKE CERTIFICATES

Hubert Emerson Ortis - Certificate # 4656. Alleged violations: (1) Displaying items during period of certificate suspension; (2) Having items displayed for sale by a salesperson. (hearing continued from 4/9/97)

Program Director Lazar said he wished to withdraw the charge of having items displayed for sale by a salesperson since, at the last hearing, no one came forward to testify to the letter of complaint received by the Program alleging that on February 9, 1997, Mr. Ortis allowed a friend to sell his items for him. Mr. Lazar asked that the Committee consider the charge of displaying items during period of certificate suspension based on staff's testimony, at the last hearing, regarding a February 13, 1997 incident.

The Program Director went on to say that he had informed Mr. Ortis in writing of the City Attorney's verbal response to the Program Committee's request for clarification on "whether a 'loophole' exists whereby a street artist may be entitled to sell his/her wares in public places during a period of certificate suspension if the artist is not selling in a designated street artist space, and whether a 'loophole' exists whereby a friend or an associate of the suspended artist may be entitled to sell similar wares."

The City Attorney's office informed Mr. Lazar verbally that the question was reviewed with that office's 1983 written clarification and concluded that a street artist selling in a non-street artist space during a period of certificate suspension falls within the jurisdiction of the Art Commission. The Deputy City Attorney who had been assigned to respond to the question had to go out of town for several weeks and did not have time to put the response in writing.

Mr. Lazar went on to say that the Deputy City Attorney explained that if an applicant enters the Street Artists

Program, the applicant subjects him/herself to two pertinent provisions of the street artist ordinance: Section 7(a) and (b) of Proposition "L" - especially 7(b) which states that it is "unlawful for any person certified as a street artist or craftsperson pursuant to the provisions of this ordinance to sell, offer for sale, expose for sale, or solicit offers to purchase, any art or craft work of the artist's own creation on any public street or public place where such activities are not permitted, unless duly licensed as a peddler pursuant to the provisions of Section 869 of Part II, Chapter VIII of the San Francisco Municipal Code (Police Code)." The City Attorney stated that if a street artist is observed selling his/her wares in a non-street artist location, and if the artist is not licensed by the Police as a peddler to sell his/her wares in the location, the artist falls within the Art Commission's jurisdiction, and the Commission may consider taking action on the artist's certificate.

Mr. Ortis stated that the City Attorney should put the clarification in writing, that he did not violate the street artist ordinance, that the suspension given to him was not correct, that he had a responsibility to produce monthly child support, and that "if this situation continues, then eventually you will make a criminal out of me." He said he would not steal nor sell drugs but would like to sell the merchandise he makes. He added that many times he was not able to obtain a space in which to sell because of fifteen or twenty salespeople per week entering the lottery.

Commissioner Stermer stated that "threats aside that this Commission could possibly turn anybody into a criminal," he could not see any reason why a suspension should not be imposed.

The Commissioners acknowledged that the Commission's standard penalty for selling while under suspension is a two-month suspension and that the Commission always retained the right to mitigate or increase its standard penalty for any case.

Commissioner Freebairn-Smith stated that Mr. Ortis had been in violation. Commissioners Meyer and Villa stated that a suspension was in order but the two-month penalty was not commensurate with Mr. Ortis's single observed incident. Commissioner Stermer suggested a deferment of the suspension to after summer; Commissioner Freebairn-

Smith noted that the Committee had deferred the previous suspension for Mr. Ortis.

Commissioner Stermer moved that Hubert Emerson Ortis be found in violation of the street artist ordinance for displaying items during period of certificate suspension; the motion was seconded by Commissioner Rogers and unanmously approved.

Commissioner Villa moved that Mr. Ortis's certificate be suspended for a period of one month; the motion was seconded by Commissioner Stermer and unanimously approved.

Commissioner Meyer moved to defer Mr. Ortis's suspension to November lst; the motion was not seconded.

Program Director Lazar stated that Mr. Ortis could avoid serving the suspension in the height of summer by writing a request to have the suspension start the next day and stating that he waived his right to appeal to the Board of Appeals.

III PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM

The Program Director reported on the activities of the 25th Anniversary Committee in planning the Street Artists Program's September 20th celebration: the upcoming jurying of a bus shelter poster to announce the upcoming event; the drafting of a booth-and-thoroughfare plan of Beach Street, Hyde to Larkin (the block to be closed for the street fair).

Commissioner Rogers stated that he attended the last meeting of the Anniversary Committee and that the Committee was a dynamic group of people, that the event was "in good hands," and that he would like to see the Committee recognized at the celebration.

IV PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES

Street Artist Hubert Emerson Ortis submitted a blue canvas bag that he found in a street artist area and said that the bag had contained merchandise made in India. He went on to say that there were three street artists who make bracelets and allow so-called "family unit" members to

sell the items for them.

Commissioner Rogers stated that Mr. Ortis's work was highly praised by people.

Mr. Ortis stated that he put a lot of time into his work but had difficulty in getting a selling space when there were eight or nine people getting spaces from the lottery who did not make what they sell. He complained to the Program Director who told him to take a picture of the violation. Not only did he not have a camera, Mr. Ortis stated, but the Wharf was his "home" and he did not want to be a "snitch."

Commissioner Rogers stated that one of the things his Committee did not like the most was street artists selling items they did not make; this merits the stiffest of Art Commission standard penalties. He invited Mr. Ortis to give his complaints to the Program Director for investigation. Commissioner Stermer asked Mr. Ortis to also convey this to his friends. Mr. Ortis responded that he had tried to get people to come in and report but they were afraid of repercussions from the other artists.

The Program Director stated that that was a handicap in the Program; without artists willing to either take a picture of an incident, report an incident, submit evidence or tell staff where to obtain evidence, or come forward and testify, the Program Committee is often curtailed in determining a preponderance of evidence relative to a violation.

Mr. Ortis stated that the blue bag he submitted had contained spools of string for kites, and that some artists certified for selling kites were selling just the spools themselves, for $3.50 each. Mr. Ortis went on to say that all of the kites were shipped from Arizona by one man, and they were sold by three people acting as "family unit" members but do not make the kites.

The Program Director clarified that the person of whom Mr. Ortis was referring had a lengthy hearing before the Art Commission many years before when the question had arisen as to whether he made his own kites, and the Commission determined that he did. Thereafter, as entitled by law, he periodically brought into the Program "family unit" street artists who, along with himself, demonstrated before the Advisory Committee of Street Artists and Crafts-

men Examiners that they contributed significantly in the making of the kites.

Commissioner Rogers stated that staff required names and places for which to pursue an investigation, and the Commission could not act on heresay. The Commissioner referred to the last major case his Committee heard in which staff found the subject merchandise in a store, after being informed by several artists of the outlet, staff testified to having witnessed the violation and obtained the merchandise, the Advisory Committee after two studio visits determined that the artists did not make the work they were selling, and the Program Committee handed down the standard penalty of a two-month suspension.

Mr. Ortis reiterated that he was reluctant to give names because he did not want to jeopardize the music equipment he stored in his car at the Wharf.

*

Street Artist Eunice Rodriguez proposed that the Program Director investigate whether street artist spaces could be located on the west sidewalk of 4th Street near Mission Street, adjacent to Starbuck's Coffee.

Program Director Lazar stated that he had observed the sidewalk's curb was a bus zone, but because the sidewalk was much wider than most, it might be possible - with more investigation - to locate some spaces in the center of the sidewalk and request the Board of Supervisors to exempt them from the regulation prohibiting a space being adjacent to a bus zone and the regulation prohibiting a space being more than four and one-half feet from the curb line.

Commissioner Rogers asked Mr. Lazar to investigate the proposal further but to do so after the Program's anniversary celebration.

Commissioner Rogers moved to adjourn the meeting; the motion was seconded by Commissioner Villa and unanimously approved. The meeting adjourned at 4:40 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar, Director
Street Artists Program

SF
A70.75
#2
6/11/97

DOCUMENTS DEPT.
JUN 05 1997
SAN FRANCISCO
PUBLIC LIBRARY

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, June 11, 1997
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE COMPENSATION OF STREET ARTIST MEMBERS OF 25TH ANNIVERSARY COMMITTEE WITH OPPORTUNITY TO MAKE FIRST SELECTION OF SELLING SPACES LOCATED INTERIOR (NOT SIDEWALK) OF BEACH STREET FOR SEPTEMBER 20, 1997 STREET FAIR CELEBRATION OF 25TH ANNIVERSARY OF STREET ARTISTS PROGRAM**

II **PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM**

III **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

IV **ADJOURNMENT**

CITY AND COUNTY OF SAN FRANCISCO

SAN FRANCISCO ART COMMISSION

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
tural Equity Grants
Symphony Concerts
Public Art

reet Artists Licenses
Suite 70
415.252.2581

ommission Gallery
1 Van Ness Avenue
415.554.6080

SF
A70.75
#2
6/11/97
Canceled

N O T I C E

The meeting of the ~~STREET ARTISTS~~ PROGRAM COMMITTEE scheduled for Wednesday, June 11, 1997 has been **cancelled.**

The next meeting of the Street Artists Program Committee is scheduled for Wednesday, **July 9, 1997, 3:00 p.m.**, Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

June 6, 1997

City and County of San Francisco

DOCUMENTS DEPT.

JUN 0 9 1997

SAN FRANCISCO PUBLIC LIBRARY

SF
A70.75
#2
7/9/97

DOCUMENTS DEPT.
JUL 01 1997
SAN FRANCISCO
PUBLIC LIBRARY

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
CULTURAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, July 9, 1997
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I HEARING AND POSSIBLE MOTION TO APPROVE COMPENSATION OF STREET ARTIST MEMBERS OF 25TH ANNIVERSARY COMMITTEE WITH OPPORTUNITY TO MAKE FIRST SELECTION OF SELLING SPACES LOCATED INTERIOR (NOT SIDEWALK) OF BEACH STREET FOR SEPTEMBER 20, 1997 STREET FAIR CELEBRATION OF 25TH ANNIVERSARY OF STREET ARTISTS PROGRAM

II HEARING ON APPEAL OF RECOMMENDATION OF ADVISORY COMMITTEE COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS TO DISAPPROVE FOR CERTIFICATION ITEMS SUBMITTED 5/29/97 BY APPLICANT JULIE MARR; POSSIBLE MOTION TO DISAPPROVE ADVISORY COMMITTEE RECOMMENDATION

III PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM

IV PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

V ADJOURNMENT

CITY AND COUNTY OF
SAN FRANCISCO

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

75
7

S F
A C

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
1 VAN NESS AVENUE
415.554.6080

DOCUMENTS DEPT.

JUL 16 1997

SAN FRANCISCO PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

July 9, 1997
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, William Meyer, Dugald Stermer, William Villa

Commissioners absent: none

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar

Commissioner Rogers, Chair, called the meeting to order at 3:09 p.m.

I **HEARING AND POSSIBLE MOTION TO APPROVE COMPENSATION OF STREET ARTIST MEMBERS OF 25TH ANNIVERSARY COMMITTEE WITH OPPORTUNITY TO MAKE FIRST SELECTION OF SELLING SPACES LOCATED INTERIOR (NOT SIDEWALK) OF BEACH STREET FOR SEPTEMBER 20, 1997 STREET FAIR CELEBRATION OF 25TH ANNIVERSARY OF STREET ARTISTS PROGRAM**

The Committee noted there was an absence of attendees to speak for or against the item. Program Director Lazar reported he had received telephone calls from three street artists in favor of it and heard from one artist who was against it.

The Commissioners cited the time and effort given by the members of the 25th Anniversary Committee to the preparations for the event and stated that an opportunity to make first selection of spaces in the street area of the fair was well deserved.

Commissioner Stermer moved that the members of the 25th Anniversary Committee be compensated with opportunity to make first selection of selling spaces located in the interior (not the sidewalk) of Beach Street for the September 20, 1997 street fair celebration of the 25th anniversary of the Street Artists Program; the motion was seconded by Commissioner Villa and unanimously approved.

Commissioner Rogers stated, for the record, that the members of his Committee were in full support of the layout of the street artist spaces in the interior of the street

CITY AND COUNTY OF SAN FRANCISCO

fair as proposed by the Anniversary Committee and approved by the Department of Parking and Traffic's ISCOTT Committee.

II **HEARING ON APPEAL OF RECOMMENDATION OF ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS TO DISAPPROVE FOR CERTIFICATION ITEMS SUBMITTED 5/29/97 BY APPLICANT JULIE MARR; POSSIBLE MOTION TO DISAPPROVE ADVISORY COMMITTEE RECOMMENDATION**

Program Director Lazar referred the Commissioners to applicant Julie Marr's June 6, 1997 letter requesting an appeal of the Advisory Committee's disapproval of her cigar boxes "decorated in a collage format using cut and torn images ... from old magazines" and her cigar boxes she handpainted and covered with photos she took herself. Mr. Lazar also referred to the June 20th written response to Ms. Marr's letter by Advisory Committee Chair Mathew Porkola which stated that the boxes covered with Ms. Marr's own photography were disapproved only because the few samples she showed were insufficient and she was asked to return with more, whereas the boxes covered with magazine photos, "which are the point of contention, had panels covered with one commercial image, with no alteration by Ms. Marr." Mr. Porkola went on to write: "My dictionary defines collage as 'an abstract composition employing various materials, such as newspaper clippings, fragments of advertising, etc. with lines and color supplied by the artist.' The emphasis here is multiple sources of material, combined in a way which makes a new image."

Mr. Porkola's point was that the cigar boxes whose "entire top panel and each side was covered with one commercial image" were similar to the work of "button makers who use a commercial available object, the button, and apply a commercial image such as Disney characters or Grateful Dead emblems, and then claim it as handcraft because they assembled it ..." Pursuant to this, Program Director Lazar stated that the Advisory Committee does not approve such buttons but does approve commercially manufactured buttons covered with a street artist applicant's own photography.

Applicant Julie Marr stated that, with respect to her usage of magazine images, they are torn and only partial images, and that she does not like to use whole images. She showed the Commissioners both the boxes covered with magazine photos and the boxes handpainted and covered with her own photography.

Commissioner Stermer stated that he perceived a copyright question in the magazine-covered boxes, and that whenever a picture of anyone in the public eye is used for sale, the peron's permission must be obtained and the person must be compensated if requested.

The Commissioners examined negatives submitted by Ms. Marr and expressed satisfaction that Ms. Marr was the one who took the photos that were on the boxes which had no magazine images.

With respect to the magazine-covered boxes, Commissioner Villa held up one and stated that, as a craftsperson, he would be upset with an artist who "lifted" an image made by someone else.

Commissioner Stermer moved that the cigar boxes covered by applicant Julie Marr's photography be approved for immediate certification; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

Commissioner Rogers moved that it be recommended that Ms. Marr re-submit to the Advisory Committee of Street Artists and Craftsmen Examiners her cigar boxes of a collage nature using magazine and other found images; the motion was seconded by Commissioner Meyer and unanimously approved.

The Program Director stated that Ms. Marr's items could be re-submitted for the Advisory Committee's August 28th meeting, as the agenda for the upcoming July 31st meeting had been filled and published.

Commissioner Meyer stated that he felt Ms. Marr's work was "lovely"; he and the other Commissioners wished her success.

III PROGRAM DIRECTOR'S REPORT ON ACTIVITIES OF STREET ARTISTS PROGRAM

Program Director Lazar gave an update on the progress of the Program's 25th anniversary celebration which included the event's posters premiering on the bus shelters on July 21st and Supervisor Mabel Teng's consenting to MC the opening ceremony.

The Program Director thanked Commissioner Freebairn-Smith for his recent drawing showing a proposed balloon-covered arch over the speakers' stage at the Hyde Street end of

Beach Street, a balloon arch over the Larkin Street end, and a "kite flotilla" sent aloft by one of the Program's kitemakers.

The Commissioners viewed the drawing, and Commissioner Freebairn-Smith explained that the major purpose of these colorful features is to form a "Cannery - Ghirardelli link to the festivities" whereby visitors would be encouraged to move westward and not to congest the Hyde/Beach end of the block.

Program Director Lazar said he would share the drawing with the members of the 25th Anniversary Committee and would also forward a copy of it to President Gatti.

Commissioner Mayer moved to adjourn the meeting; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved. The meeting adjourned at 3:57 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

TO: Government Information Center
5th Floor
Dept. #41

SF
A70.75
#2
8/13/97

SAN FRANCISCO ART COMMISSION

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Symphony Concerts
Public Art

Street Artists Licenses
Suite 70
415.252.2581

Commission Gallery
1 Van Ness Avenue
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, August 13, 1997
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
JUL 31 1997
SAN FRANCISCO PUBLIC LIBRARY

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF TEMPORARY WINTER HOLIDAY SELLING SPACES FOR STREET ARTISTS IN THE DOWNTOWN AREA AND AT HARVEY MILK PLAZA, FOR NOVEMBER 15, 1997 - JANUARY 15, 1998**

(The Program Director proposes the **same** 52 temporary selling spaces in the Downtown area as had been designated for the last five winter holiday seasons, with 4 spaces to be moved from the west side to the east side of Stockton Street, Geary to O'Farrell Streets, and the **same** 7 spaces at Harvey Milk Plaza as had been approved the last two winter holiday seasons and the winter season of 1992-93 - and for the **same** time period as had been approved for the last seven years.)

II **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST FOR ISSUANCE OF CERTIFICATE WITH WAIVER OF RE-SCREENING OF WARES AND WAIVER OF 1-MONTH SUSPENSION OF CERTIFICATE**

Hubert Emerson Ortis - Certificate # 4656 expired June 5, 1997, prior to its scheduled suspension period of June 7 through July 6, 1997.

III **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

IV **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

V **ADJOURNMENT**

City and County of San Francisco

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

[Government Information Center]
5th Floor
Dept. #41

SAN FRANCISCO ART COMMISSION

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
tural Equity Grants
Symphony Concerts
Public Art

reet Artists Licenses
Suite 70
415.252.2581

ommission Gallery
1 Van Ness Avenue
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

August 13, 1997
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

DOCUMENTS DEPT.
AUG 20 1997
SAN FRANCISCO PUBLIC LIBRARY

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, William Meyer, Dugald Stermer,

Commissioners absent: William Villa

Staff present: Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, called the meeting to order at 3:11 p.m.

I **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST FOR ISSUANCE OF CERTIFICATE WITH WAIVER OF RE-SCREENING OF WARES AND WAIVER OF 1-MONTH SUSPENSION OF CERTIFICATE**

Hubert Emerson Ortis - Certificate # 4656 expired June 5, 1997, prior to its scheduled suspension period of June 7 through July 6, 1997.

Program Director Lazar conveyed the City Attorney's advice with respect to Mr. Ortis's request. The Program Director also stated that during the month of June, when Mr. Ortis's certificate would have been suspended (had it been valid), and during the month of July and up to the present, he did not see Mr. Ortis selling nor did the Program receive any report of his selling. When Mr. Ortis had contacted the Program at the beginning of July to request a new certificate, he had said that he had honored the suspension period by not selling. The Program Director had then explained to him that the suspension had not "technically" been served because the certificate had been allowed to expire prior to its being suspended.

The Program Director further explained that, because the City Attorney had advised that Mr. Ortis's request be heard by the Program Committee and acted on by the full Commission, Mr. Ortis will have been without a certificate to sell his wares for the entire summer selling season, including both the 4th of July and Labor Day weekends.

Mr. Ortis declined the opportunity to speak.

City and County of San Francisco

In response to questions by Commissioners Stermer and Rogers, Mr. Lazar reiterated that, despite the many phone complaints from artists reporting other artists' violations, the Program had received no reports (anonymous or otherwise) of Mr. Ortis having been selling this summer; Mr. Ortis, if re-certified, intended to sell the same jewelry for which he had been previously certified; and there has never been a question of whether he makes the work himself for he has demonstrated this at his sales stand.

In response to questions from Commissioner Freebairn-Smith, Mr. Lazar stated that he had received only two phone calls from people expressing the opinion that it could be a negative precedent established if Mr. Ortis were not ordered to serve the suspension under a new certificate.

In response to Commissioner Rogers' question of whether Mr. Ortis had gained a monetary advantage in letting his certificate expire, Mr. Lazar stated that the savings of approximately $30 - one month's certificate validity - would be offset by the $20 application fee, adopted last year by the Art Commission, which Mr. Ortis would have to pay in addition to the cost of a new certificate. In essence, Mr. Ortis "saved" $10, but this might be considered as being absorbed by his losing for himself the opportunity of selling during the best three-month sales season of the year.

Commissioner Rogers stated that the evidence pointed to Mr. Ortis's having, in essence, served his suspension legitimately, and there was no point in adding to it. Furthermore, if similar situations were to occur with other artists, their requests should be heard on a case-by-case basis. He added that he felt it would be punitive for Mr. Ortis to serve the previous suspension on a new certificate.

Commissioner Stermer concurred that Mr. Ortis's suspension, in effect, had been honestly served.

Commissioner Stermer moved that the request by Hubert Emerson Ortis for issuance of certificate with waiver of re-screening of wares be approved; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

II **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF TEMPORARY WINTER HOLIDAY SELLING SPACES FOR STREET ARTISTS IN THE DOWNTOWN AREA AND AT HARVEY MILK PLAZA, FOR NOVEMBER 15,**

1997 - JANUARY 15, 1998

The Program Director proposed the same 52 temporary selling spaces in the Downtown area as had been designated for the last five winter holiday seasons, with 4 spaces to be moved from the west side to the east side of Stockton Street, Geary to O'Farrell Streets, and the same 7 spaces at Harvey Milk Plaza as had been approved the last two winter holiday seasons and the winter season of 1992-93. The temporary spaces would be for the same time period as had been approved for the last seven years. For the past fifteen years, the Board of Supervisors has approved winter holiday spaces in the Downtown area.

The Program Director went on to say that, as before, all the store merchants, building managers, and merchant organizations on the Street Artists Program's mailing list had been sent the agenda of the meeting. The Program Director had telephoned and spoken with Ms. Linda Mjellum, Executive Director of Union Square Association, and had also telephoned Ms. Ann Paolini, Manager of Neiman Marcus, and left a message alerting her of the agenda.

The Commissioners noted that no store merchants, building managers or representatives from merchant organizations were in attendance.

The Program Director explained that last year's relocation of four spaces from the east side to the west side of Stockton Street, at Geary, was in deference to Neiman Marcus's Ann Paolini who had predicted large crowds of viewers of her store's windows. The verbal messages Mr. Lazar had received since then from the street artists indicated that the artists preferred to have the four spaces moved back to the east (Neiman Marcus) side of the street.

The Commissioners ascertained that the Program Director will continue requesting off-duty Police officers, paid by the Street Artists Program, to cite and confiscate the merchandise of unlicensed vendors in the Downtown area for the two weeks prior to Christmas. Despite this effort, the Program Director reported, the Police officers have expressed frustration over seeing the same unlicensed vendors returning with merchandise day after day, year after year.

There followed a discussion on the need for the District

Attorney's office to make it a priority to vigorously prosecute such cases - especially since the Street Artists Program was paying for the enforcement.

Street Artist Bill Clark stated that, based on his discussions with other street artists, the main problem the artists have is over the District Attorney's past refusal to prosecute the illegal vendors who are arrested. The vendors are cited and their merchandise is confiscated, but the charges against them are dismissed; and it becomes widely known by other illegal vendors that if they get caught, the District Attorney will dismiss the charges, and they will get their merchandise back. These matters are not high on the priority of the D.A.'s office. Mr. Clark said he knew Terence Hallinan personally and did not feel that Mr. Hallinan was aware of the problem that the situation was causing for the Street Artists Program.

Mr. Clark also asked that the Commission implement its motion made last year to seek reimbursal of the Program's costs of enforcing the street artist ordinance from fines collected for violations of the ordinance.

Officer Mike Deely of Northern Police Station stated that he has worked the "bootleg T-shirts" detail at Candlestick Park and other large-crowd events. In his experience, the illegal vendor is cited, his money and merchandise are confiscated, his merchandise - perhaps 200 T-shirts - is painstakingly inventoried, and all that this effort accomplishes is to put the illegal vendor out of business for that day. Officer Deely went on to say that he has never received a subpoena to go to court on having issued a citation for peddling without a permit.

In response to a question by Commissioner Rogers, Officer Deely stated that it is not difficult to get a conviction on an illegal vendor, especially since it is ascertained that the vendor does not have a permit to go with the product he is selling. The lack of prosecution of such cases allows for the continuous illegal selling of T-shirts in such tourist areas as Twin Peaks.

Street Artist Bill Clark stated that, while he could accept the dismissal of first-time offenders, he wanted to see the Art Commission convey to the City Attorney that multiple-incident offenders should be prosecuted. He also wanted to see such offenders cited as misdemeanors rather than as infractions.

Commissioner Rogers asked the Program Director to take the time between the end of the Program's anniversary celebration and the start of the Christmas season to meet with parties involved with the problem, so that word could be sent out to the street that illegal vendors would be prosecuted. Unless the District Attorney's office cooperates, he said, this will not be able to happen. The Commissioner said he would like to attend such a meeting and asked his fellow Commissioners also to attend.

Commissioner Freebairn-Smith questioned if there were other cities that had to deal with this problem and, if so, how they dealt with it.

Commissioner Stermer moved that the Board of Supervisors be requested to designate temporary winter holiday selling spaces for street artists in the Downtown area and at Harvey Milk Plaza, for November 15, 1997 - January 15, 1998, as proposed by the Program Director; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

III REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

The Program Director outlined the progress of the 25th anniversary celebration project scheduled for September 20th. Some of the posters have been observed on kiosks on Market Street; the Police approved the amplification permit; the City Risk Manager found a carrier for the insurance policy. Mr. Lazar asked the Commissioners for help in contacting persons they know in the media to feature the event. Commissioners Freebairn-Smith and Rogers said they would try to do so.

IV PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES

No comment was received.

Commissioner Freebairn-Smith moved to adjourn the meeting; the motion was seconded by Commissioner Meyer and unanimously approved. The meeting was adjourned at 4:00 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar, Director
Street Artists Program

SAN FRANCISCO ART COMMISSION

SF
A70.75
#2
9/10/97
Cancelled

DOCUMENTS DEPT.
SEP 05 1997
SAN FRANCISCO
PUBLIC LIBRARY

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts
& Education
ltural Equity Grants
S Symphony Concerts
Public Art

treet Artists Licenses
Suite 70
415.252.2581

Commission Gallery
01 Van Ness Avenue
415.554.6080

N O T I C E

The meeting of the STREET ARTISTS PROGRAM COMMITTEE scheduled for Wednesday, September 10, 1997 has been **cancelled** due to preparations for the celebration of the 25th anniversary of the Street Artists Program scheduled for Saturday, September 20th on Beach Street, Hyde to Larkin Streets.

The next meeting of the Street Artists Program Committee is scheduled for Wednesday, **October 8, 1997, 3:00 p.m.,** in the Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

September 3, 1997

City and County of
San Francisco

SF
A70.75
#2
10/8/97

SAN FRANCISCO ART COMMISSION

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Symphony Concerts
Public Art

Street Artists Licenses
Suite 70
415.252.2581

Commission Gallery
1 Van Ness Avenue
415.554.6080

DOCUMENTS DEPT.
OCT 01 1997
SAN FRANCISCO PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, October 8, 1997
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS PERMANENT DESIGNATION OF TEN SELLING SPACES ON BEACH STREET, NORTH SIDE, LARKIN TO POLK STREETS, FORMERLY DESIGNATED AS TEMPORARY SPACES IN RESOLUTION NO. 572-77**

II **HEARING AND POSSIBLE MOTION TO APPROVE POLICY OF NOTIFYING PORT COMMISSION OF STREET ARTIST VIOLATORS ON PORT PROPERTY**

NOTE: In Exhibit 2 of Port Resolution No. 95-56, adopted June 27, 1995, it is stated: "Street artists shall comply with all applicable laws, rules and regulations of the Port governing their use of Spaces on Port property. In the event a designated Port property manager determines that a street artist on Port property has violated such applicable laws, rules and regulations, such violator shall be given written notice of the violation. In the event of two or more violations, such violator shall be denied the ability to participate in the lottery for Spaces on Port property for the twelve month period following such notice of violation. Any street artist receiving a notice of violation shall have the opportunity for a hearing on the notice of violation before the Port Executive Director or his designated director who may act in the place of the Executive Director as the hearing officer. Three or more violations received within any twelve (12) month period shall be grounds for permanent forfeiture of the street artist rights to locate on Port property."

III **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

IV **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of

Continued .....

City and County of San Francisco

interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

V ADJOURNMENT

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

11/4/97 8
1st copy Posted
DOCUMENTS DEPT.
NOV 18 1997
SAN FRANCISCO
PUBLIC LIBRARY

SF
A70.75
#2
11/12/97
c.2

SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, November 12, 1997
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I HEARING AND POSSIBLE MOTION REGARDING SPACES "J-8" AND "J-9" ON PORT PROPERTY

II HEARING AND POSSIBLE MOTION TO APPROVE STREET ARTISTS PROGRAM TO CHARGE A FEE OF TEN CENTS (.10) PER PAGE, PLUS ANY POSTAGE, OF DOCUMENTS ASSEMBLED AND COPIED BY STAFF TO THE ORDER OF A REQUESTER

III REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

IV PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

V ADJOURNMENT

PROGRAMS
IC ART COLLECTION
VIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
RAL EQUITY GRANTS
MPHONY CONCERTS
PUBLIC ART

ET ARTISTS LICENSES
SUITE 70
415.252.2581

MISSION GALLERY
VAN NESS AVENUE
415.554.6080

TY AND COUNTY OF
SAN FRANCISCO

25 VAN NESS AVE. SUITE 240. SAN FRANCISCO, CA. 94102 TEL. 415.252.2590 FAX 415.252.2595

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

SF
A70.75
#1
10/8/97

SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

October 8, 1997
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

DOCUMENTS DEPT.
OCT 31 1997
SAN FRANCISCO
PUBLIC LIBRARY

M I N U T E S

Commissioners present: Emery Rogers, William Meyer, Dugald Stermer, William Villa

Commissioners absent: Rod Freebairn-Smith

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar

The meeting was called to order at 3:07 p.m.

I HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS PERMANENT DESIGNATION OF TEN SELLING SPACES ON BEACH STREET, NORTH SIDE, LARKIN TO POLK STREETS, FORMERLY DESIGNATED AS TEMPORARY SPACES IN RESOLUTION NO. 572-77

The Commissioners reviewed Board of Supervisors Resolution No. 572-77, which designated ten street artist spaces on "Beach Street, north side, Larkin to Polk Streets" as "temporary sites" to "terminate October 1, 1978," and acknowledged that the spaces had subsequently been reinstated for temporary one-year periods in 1978, 1979, and 1980.

Commissioner Villa moved that the Program Director be authorized to request the Board of Supervisors for permanent designation of ten selling spaces on Beach Street, north side, Larkin to Polk Streets, formerly designated as temporary spaces in Resolution No. 572-77; the motion was seconded by Commissioner Stermer and unanimously approved.

II HEARING AND POSSIBLE MOTION TO APPROVE POLICY OF NOTIFYING PORT COMMISSION OF STREET ARTIST VIOLATORS ON PORT PROPERTY

The Commissioners reviewed Port Commission Resolution No. 95-96, adopted June 27, 1995, and its attached Exhibit 2 which states in item 2(e): "Street artists shall comply with all applicable laws, rules and regulations of the Port governing their use of Spaces on Port property. In the event a designated Port property manager determines that a street artist on Port property has violated such

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Symphony Concerts
Public Art

Street Artists Licenses
Suite 70
415.252.2581

Commission Gallery
Van Ness Avenue
415.554.6080

City and County of San Francisco

25 Van Ness Ave. Suite 240. San Francisco, CA. 94102 tel. 415.252.2590 fax 415.252.2595

applicable laws, rules and regulations, such violator shall be given written notice of the violation. In the event of two or more violations, such violator shall be denied the ability to participate in the lottery for Spaces on Port property for the twelve month period following such notice of violation. Any street artist receiving a notice of violation shall have the opportunity for a hearing on the notice of violation before the Port Executive Director or his designated director who may act in the place of the Executive Director as the hearing officer. Three or more violations received within any twelve (12) month period shall be grounds for permanent forfeiture of the street artist rights to locate on Port property."

Asked by the Commissioners for his recommendation, Program Director Lazar recommended a policy of notifying the Port of street artist violators in order to maintain the integrity of the Street Artists Program on Port property. To implement such a policy, he proposed that a copy of any "NOTICE OF WARNING" given to a street artist for violating the street artist ordinance on Port property (Jefferson Street) be sent to the Port Commission and stated as such on the "WARNING": "cc: Port Commission."

Street Artists Therese Koller and Kathy Hallinan objected to the recommendation. Ms. Koller said the Art Commission wanted to be "punitive" and that the proposed policy would "stir up problems" and not be beneficial, and that "the Port really doesn't care" and has not been policing the spaces. Ms. Hallinan said that since 1995 there has not been one complaint from Chris Martin of The Cannery, and that Kirk Bennett of the Port said he wanted to give the artists more spaces.

In response to a question from Commissioner Rogers, Program Director Lazar stated that Mr. Martin had, over the past two years, written and phoned his complaints regarding Jefferson Street artists' allowing their displays to infringe on the pedestrian aisleway by his building, infringe on the main entrance to The Cannery courtyard, and infringe on the southwest crosswalk-intersection of Jefferson and Leavenworth. With regard to the granting of more spaces, the Port Commission in its meeting of last December refused to grant additional spaces.

Street Artist Robert Clark expressed his support of the proposed policy, stating that in his twenty-five years of working with the Art Commission it has been "extremely

difficult" to get the Port Commission to grant spaces "because of the activities of street artists on Jefferson Street." It was time for the artists to be told that their activities on Jefferson Street were jeopardizing the future of their spaces. For some artists, the outcome of the proposed policy might result in their being prohibited from selling on Jefferson Street, but they would not be precluded from selling in non-Port spaces. He also endorsed the proposed policy from a liability standpoint: the Port should be kept aware of deleterious street artist activities because the Port is legally responsible for the use of its property.

Director Newirth handed the Commissioners a copy of a letter of March 27, 1997 from Port Executive Director Douglas F. Wong to street artist Therese Koller which states that on December 10, 1996, "the Port Commission did not support" its staff's recommendation to reinstate two street artist spaces ("J-8" and "J-9"): "... One Port Commissioner did propose a motion supporting the Port staff's recommendation, but the motion died for lack of a second, demonstrating a unique lack of support by the Port Commission for the staff's recommendation. ... I am not prepared to submit to the Port Commission any recommendation to change to the Port's current policy for street artists spaces on Port property."

Commissioner Stermer moved that a policy for the Street Artists Program to notify the Port Commission of street artist violators on Port property be approved; the motion was seconded by Commissioner Villa and unanimously approved.

III REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

Program Director Lazar thanked the Commissioners for all of their encouragement and assistance in the year-long preparation of the Program's 25th anniversary project. A by-product from the success of the celebration was being able to show the store merchants on Beach Street that, by closing their street for a one-day event, their business was not harmed.

Commissioner Stermer expressed support for the Program Director's vision of someday having Beach Street closed to vehicles on a weekend basis, with street artists selling in the street among performers, patrons sitting at cafe tables, and other activities - all of which would encourage

the flow of shoppers from the east end of the Wharf to the west end.

Commissioner Meyer said the idea would reinforce the whole open space concept of the area and would yield more access to the water.

The Program Director informed the Commissioners that the request for the 59 winter holiday spaces for street artists was scheduled before the Board of Supervisors' Housing and Neighborhood Services Committee on October 16th.

IV **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES**

Street Artist Therese Koller stated that the Program has not published a bluebook of rules for ten years, "that nobody knows what the rules are, that it becomes a matter of who's the biggest bully at the lottery."

Commissioner Meyer responded that the staff was presently working on an updated edition of the book.

Program Director Lazar stated that he was half-way through the editing of the new edition which he estimated would be about 150 - 160 pages long and will include, in addition to the updated rules and regulations, a history of the establishment of the Program.

On another issue, Ms. Koller stated she met with Commissioner Freebairn-Smith in his office and he agreed to put on the agenda the matter of requesting the Port Commission to reinstate spaces "J-8" and "J-9" but he had not followed through; she was now asking that two Commissioners place the matter on the full Commission agenda of November. She stated that the matter had been left open by the Port to be re-heard.

Director Newirth stated that as recently as last March the Port Executive Director said that the Port was not going to consider the matter.*

Commissioner Rogers stated that he shared that understanding. He invited her, however, to request the Program

---

* See excerpt from Director Wong's March 27, 1997 letter to Ms. Koller on Page 3 of these minutes.

Director to place the matter on the agenda of the Program Committee, and the Commissioners would consider having a hearing on it. He said she would receive a response in writing as to the Committee's decision on whether it would hear the matter.

Street Artist Kathy Hallinan stated that she felt the Commissioners were "looking down on us", were "intimidating", and said that she felt she did not get to state her point of view. She went on to say that the people who organized the Program's 25th anniversary celebration had not been street artists for twelve or fifteen years and do not work at the Wharf.

Commissioner Rogers adjourned the meeting at 4:12 p.m.

Respectfully submitted

Howard Lazar

Howard Lazar
Director
Street Artists Program

SAN FRANCISCO ART COMMISSION

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Symphony Concerts
Public Art

Street Artists Licenses
Suite 70
415.252.2581

Commission Gallery
401 Van Ness Avenue
415.554.6080

SF
A70.75
#2
11/12/97

DOCUMENTS DEPT.
NOV 04 1997
SAN FRANCISCO PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, November 12, 1997
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I HEARING AND POSSIBLE MOTION REGARDING SPACES "J-8" AND "J-9" ON PORT PROPERTY

II HEARING AND POSSIBLE MOTION TO APPROVE STREET ARTISTS PROGRAM TO CHARGE A FEE OF TEN CENTS (.10) PER PAGE, PLUS ANY POSTAGE, OF DOCUMENTS ASSEMBLED AND COPIED BY STAFF TO THE ORDER OF A REQUESTER

III REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

IV PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

V ADJOURNMENT

City and County of San Francisco

25 Van Ness Ave. Suite 240, San Francisco, CA. 94102 tel. 415.252.2590 fax 415.252.2595

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market, one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

S F
A C

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
CULTURAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

DOCUMENTS DEPT.

NOV 24 1997

SAN FRANCISCO
PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

November 12, 1997
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, William Meyer, William Villa

Commissioners absent: Dugald Stermer

Staff present: Director of Street Artists Program Howard Lazar

Commissioner Rogers, Chair, called the meeting to order at 3:00 p.m.

I HEARING AND POSSIBLE MOTION REGARDING SPACES "J-8" AND "J-9" ON PORT PROPERTY

The Commissioners acknowledged the FAXed letter received that morning from Street Artist Therese Koller requesting "on the advice of counsel" a withdrawal of the item she had requested "until further notice." Commissioner Rogers stated that it was a calendared item for a public hearing, there were people present who had taken the time to come to the meeting to testify, and he wanted the hearing to proceed. He requested Program Director Lazar to give some background on the item.

The Program Director discussed the events relative to spaces "J-8" and "J-9" over the past two and a half years, which included the Port Commission's removal of the two spaces in 1995 in deference to a doorway of The Cannery; the Port Commissioners' refusal to reinstate the two spaces when so recommended by their former Director last December; and the new Director's position stated clearly in a letter to Therese Koller, as recently as March, 1997, that "there is not support by the Port Commission to change this resolution" and "I am not prepared to submit to the Port Commission any recommendation to change to the Port's current policy for street artist spaces on Port property."

The Program Director further stated that months prior to the Port's December refusal to reinstate the spaces, the Street Artists Program office had received a message from Street Artist Kathleen Hallinan that a meeting of the Art Commission's Street Artist Liaison Committee had been held and she, Ms. Koller, and another artist had been

CITY AND COUNTY OF
SAN FRANCISCO

"designated" to negotiate with the Port on the two spaces. No official notice of the meeting had been given to the Program office, the Art Commission, or the Library. Ms. Hallinan and Ms. Koller pursued the issue at the Port, and Port staff telephoned and wrote the Program Director, expressing bewilderment as to why the issue was being pursued. (In a letter of 8/14/95, former Director Dennis Booey stated, "Since this resolution has just been passed by the Port Commission, I believe that it is too soon to now consider additional street artist spaces on Port property.")

In their most recent pursuit of the issue at the Art Commission, Ms. Koller wrote to President Gatti that "if it is necessary to go through the Program Committee, then we are requesting that the full Art Commission be present at that meeting."

Commissioner Rogers opened the hearing to public testimony.

Mr. Christopher Martin, managing partner of The Cannery, stated that The Cannery has street artists on all three of its street fronts, and that for twenty-five years The Cannery has tried to co-exist with the Street Artists Program which included involvement with the Program in attempting to upgrade standards to ensure that handmade items (not mass-produced) would be sold. The Cannery has, however, had problems from time to time with the manner in which the artists set up their displays, where they park their cars, and "squeezing" (setting up displays) in illegal spaces between the legal spaces.

Mr. Martin went on to say that when a new tenant of The Cannery put in a door on Jefferson Street, spaces "J-8" and "J-9" came within twelve feet of the entrance of the store and were eliminated. At the time they were eliminated, The Cannery agreed to allow some additional spaces on its Beach Street side which actually were adjacent to The Cannery's entranceway.

Mr. Martin said that his group was opposed to "J-8" and "J-9" for the following reasons: (1) They would constrict access to the store on Jefferson Street; (2) when the two spaces, along with the others in the line, were in existence, there was a "nightmare" of "squeezing" in as many as fifteen artists within six spaces. He wanted to see the issue closed, as it was counter-productive and pitted the interests of street artists against those

of the merchants, as it did at the Port Commission.

Commissioner Rogers, upon questioning the Program Director, ascertained that when the Port deleted "J-8" and "J-9", there was no net loss of spaces as the Port granted two replacements, "J-1A" and "J-1B". In addition, with the cooperation of The Cannery and the efforts of the Art Commission, the street artists received four more spaces on Beach Street (three adjacent to The Cannery entrance, and one at Beach and Hyde Streets) - all of which became viable selling locations.

Street Artist Eunice Rodriguez stated that in 1995 she wrote a letter against Ms. Hallinan and Ms. Koller who were irritating the Port with the issue of the two spaces, and that she, Mrs. Rodriguez, had attended Port meetings and surmised that the Port does not wish to grant the spaces. She felt that the two artists should not be allowed to take up the time of the Port Commissioners and the Art Commissioners with an issue that was settled.

Mrs. Rodriguez went on to say that she, a member of the Liaison Committee, had not been informed of the Liaison Committee "meeting" prior to the morning of the "meeting" when Ms. Hallinan approached her at the lottery and told her that a special meeting was going to be held; Mrs. Rodriguez had refused to attend on the grounds that no advance notice or agenda had been posted. She learned that the meeting was held and that Ms. Koller and Ms. Hallinan "appointed themselves to go to the Port to get 'J-8' and 'J-9' back on their own." Mrs. Rodriguez reiterated that she, a Liaison member, had received no agenda from the Program or from anyone that the Liaison "meeting" would be held.

Street Artist Robert Clark thanked the Commissioners for choosing to hear the item because people like Mr. Martin and he had taken the time, after being notified, to come to the meeting and give input. As a street artist, his ethic has been to try to work with The Cannery, while Mr. Martin had had to deal with much of the problems engendered by the artists next to his building. If Mr. Martin stated that spaces "J-8" and "J-9" caused problems, then he, Mr. Clark, wanted it on record that he, as a street artist accepted his opinion and that the artists were willing to work with the store merchants in the area.

Mr. Clark went on to say that he, a member of the Liaison Committee, was not informed "until the last moment" that the Liaison "meeting" would occur which had appointed members to approach the Port; he refused to attend because he felt it was a violation. Later, he chose to attend a Port meeting in order to tell the Commissioners that Ms. Koller did not represent him as an artist and that "she was illegally representing" the Liaison Committee. At the Port meeting, he added, Ms. Koller told him to leave the meeting and tried to convince the Commission to prohibit him from attending its meetings.

Street Artist William Clark stated that, prior to today's meeting, Ms. Koller and Ms. Hallinan were present in the meeting room, told him they were not feeling well, and chose to leave.

At the request of Commissioner Rogers, the Program Director discussed a list he had submitted of 35 street artist violations noted on Port property from the time of the Port's resolution (June 27, 1995) to the present, most of the violations being artists selling in illegal locations.

Commissioner Rogers stated that, in deference to Ms. Koller and Ms. Hallinan, he did not want to take any action; rather, he wanted to see if they wished to request the item for another hearing. The persons who had given testimony at today's hearing would not be required to return. He wanted to give Ms. Koller and Ms. Hallinan the opportunity to present testimony.

Commissioner Meyer stated that his view reflected Mr. Martin's comments: the issue had been thoroughly heard, and he did not wish to pursue the issue and create friction with The Cannery. Furthermore, from the facts it was clear that there had been a trade-off of spaces.

Commissioner Freebairn-Smith asked that the minutes reflect the Committee's appreciation for the testimony of Mrs. Rodriguez, Mr. Clark, and Mr. Martin, because this was a "continuing issue". He went on to say that the strength of feeling that Ms. Koller and Ms. Hallinan have about it seemed "exaggerated ... "beyond the care in the negotiations that have been given the issue." The issue had been given "more than adequate discussion."

II **HEARING AND POSSIBLE MOTION TO APPROVE STREET ARTISTS PROGRAM TO CHARGE A FEE OF TEN CENTS (.10) PER PAGE, PLUS**

ANY POSTAGE, OF DOCUMENTS ASSEMBLED AND COPIED BY STAFF TO THE ORDER OF A REQUESTER

The Commissioners acknowledged Section 66.28 of the Sunshine Ordinance which states: "For documents assembled and copied to the order of a requester ... a fee not to exceed 10 cents per page may be charged, plus any postage."

Program Director Lazar submitted a recommendation from Director of Cultural Affairs Newirth and himself: ten cents a page for any document over ten pages and/or any request for three or more documents.

After discussion, Commissioner Meyer moved that a fee of ten cents per page be charged for any document or documents comprising thirty pages or over; the motion was seconded by Commissioner Freebairn-Smith.

After further dicussion, Commissioner Meyer amended his motion as follows: that a fee of ten cents (.10) per page be charged for any document or documents comprising ten (10) or more pages assembled and copied by staff to the order of a requester; the motion was seconded by Commissioner Freebairn-Smith, and unanimously approved.

III REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

Commissioner Rogers inquired on the progress of the draft of the Program's upcoming "bluebook" or handbook of rules, procedures, and policies. Program Director Lazar, its editor, responded that the draft was half-completed when he had to stop working on it in September due to the final stages of the anniversary celebration event. Since then, he had not been able to resume work on it due to paying the bills and handling final matters of the event, handling violation cases and the other ongoing managerial and enforcement matters of the Program, and responding to requests by certain certificate-holders for Commission documents. He was looking forward to resuming work on the book in December.

The Program Director informed the Commissioners of his meeting on the following day with the Department of Public Works, the Police Department, the Market Street Association, the Powell Street Merchants Associations, and street artists on reconfiguring street artist spaces at Hallidie Plaza.

IV PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES

Street Artist William Clark stated that, prior to the present meeting, he had submitted a request for the Art Commission to hear a proposal for the Street Artists Program to have a designated Website on the computer net; it was to have been calendared for today's meeting, but he conceded to the Program Director's request to hold over the item to a future meeting, in deference to the present agenda's major item, the hearing on spaces "J-8" and "J-9." He asked that his item be taken up at the next Program Committee meeting.

Street Artist Eunice Rodriguez requested, for the second time, that the Program look into obtaining street artist spaces by Starbuck's on 4th Street at Mission Street. Commissioner Rogers responded that he wanted the Program Director to look into the proposal after the winter holiday selling season is over and after he completes the "bluebook."

The meeting adjourned at 3:53 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

SAN FRANCISCO ART COMMISSION

SF
A70.75
#2
12/10/97
Canceled

DOCUMENTS DEPT.
NOV 17 1997
SAN FRANCISCO
PUBLIC LIBRARY

PROGRAMS
IVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
URAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

REET ARTISTS LICENSES
SUITE 70
415.252.2581

MMISSION GALLERY
VAN NESS AVENUE
415.554.6080

NOTICE

The meeting of the STREET ARTISTS PROGRAM COMMITTEE scheduled for **Wednesday, December 10, 1997** has been **cancelled.**

The next meeting of the Street Artists Program Committee is scheduled for Wednesday, **January 14, 1997, 3:00 p.m.** in the Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

November 18, 1997

CITY AND COUNTY OF
SAN FRANCISCO

SAN FRANCISCO ART COMMISSION

SF
A70.75
#2
1/14/98
Cancelled

DOCUMENTS DEPT.
JAN 12 1998
SAN FRANCISCO
PUBLIC LIBRARY

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts
& Education
Cultural Equity Grants
SFS Symphony Concerts
Public Art

Street Artists Licenses
Suite 70
415.252.2581

Commission Gallery
401 Van Ness Avenue
415.554.6080

NOTICE

The meeting of the STREET ARTISTS PROGRAM COMMITTEE scheduled for **Wednesday, January 14, 1998** has been **cancelled.**

The next meeting of the Street Artists Program Committee is scheduled for **Wednesday, February 11, 1998, 3:00 p.m.** in the Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

January 9, 1998

City and County of
San Francisco

SF
A70.75
#2
2/11/98

SAN FRANCISCO ART COMMISSION

DOCUMENTS DEPT.
JAN 29 1998
SAN FRANCISCO
PUBLIC LIBRARY

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
tural Equity Grants
Symphony Concerts
Public Art

treet Artists Licenses
Suite 70
415.252.2581

ommission Gallery
1 Van Ness Avenue
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, February 11, 1998
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE ISSUANCE OF CERTIFICATE OR RENEWAL OF CERTIFICATE**

Alfred Gamarra - Certificate # 1547. Alleged violation: Display of items by a salesperson, first violation.

30 p.m.
ring

II **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE ISSUANCE OF CERTIFICATE OR RENEWAL OF CERTIFICATE**

Matt Summers - Certificate # 387. Alleged violation: Esceeding display length regulation (Ord. 41-83, Section 2405(c)(4)), third violation.

III **HEARING ON PROPOSAL TO REQUEST BOARD OF SUPERVISORS TO DESIGNATE AS A SALES AREA FOR THE STREET ARTISTS PROGRAM A WEBSITE ON THE INTERNET**

IV **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

V **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VI **ADJOURNMENT**

City and County of San Francisco

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market, one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

DOCUMENTS DEPT.
FEB 19 1998
SAN FRANCISCO PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

February 11, 1998
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, William Meyer, Dugald Stermer, William Villa

Commissioners absent: None

Staff present: Director of Street Artists Program Howard Lazar
Certificate Clerk Antoinette Worthy

Commissioner Rogers, Chair, called the meeting to order at 3:08 p.m.

I **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE ISSUANCE OF CERTIFICATE OR RENEWAL OF CERTIFICATE**

Alfred Gamarra - Certificate # 1547. Alleged violation: Display of items by a salesperson, first violation.

Program Director Lazar stated that a violation of having a salesperson was considered a "serious violation" - not a "minor violation" - under the Art Commission's new hearing procedures, and that was why the charge against Mr. Gamarra was referred directly to the Program Committee with issuance of notice to Mr. Gamarra that his certificate renewal was being withheld pending a decision by the Committee.

The Commissioners acknowledged receiving in the mail copies of the reports of three incidents of Mr. Gamarra's allegedly having a salesperson on his behalf at his display and acknowledged receiving copies of letters furnished by Mr. Gamarra on his behalf.

The Commissioners received testimony from the following witnesses to the three incidents, as noted:

Incident 1 (December 21, 1997, Stockton Street, east side, Geary to O'Farrell): Susan Tibbon, Member, Advisory Committee of Street Artists and Craftsmen examiners, stated that Advisory Committee member Mathew Porkola and she were on monitoring duty, observing the arts and crafts for adherence

CITY AND COUNTY OF SAN FRANCISCO

25 VAN NESS AVE. SUITE 240, SAN FRANCISCO, CA. 94102 TEL. 415.252.2590 FAX 415.252.2595

to the rules, when they observed a man they did not recognize standing behind Mr. Gamarra's open display and engraving a money clip. She asked him where the artist had gone and was told that Mr. Gamarra had gone to a rest room. Ms. Tibbon and Mr. Porkola then went around the corner and returned about thirty minutes later, whereupon they found that the man behind the display had a customer in front of him and was continuing to engrave a money clip. The customer took the money clip, and the man behind the display suggested that he return later to pay him since "the Art Commission people were there". She then asked to see Mr. Gamarra's license; it was not produced. When Mr. Gamarra returned, she asked him for his license, and he declined. They found a Police officer who asked Mr. Gamarra to see the license; Mr. Gamarra produced it. She and Mr. Porkola explained to Mr. Gamarra that it was a serious violation to have a salesperson.

Mathew Porkola, Chair, Advisory Committee of Street Artists and Craftsmen Examiners, stated that when Ms. Tibbon and he were performing street monitoring duty that day they did not recognize the man standing behind Mr. Gamarra's display. They asked him to let the artist know that a charge of having a salesperson could jeopardize his license. They went around the corner; when they returned, they "observed the transaction." They approached a Police officer across the street to possibly have the man cited for peddling without a license. At that point, Mr. Gamarra appeared and produced his license only upon request by the officer. With regard to having "observed the transaction," Mr. Porkola stated that he saw the customer standing by the display, handling items, and the salesperson pulling down the templates for the pantograph and beginning the engraving process. (Mr. Porkola stated that he took the photos of the incident and described what was going on, as the Commissioners examined the photos.) He did not hear the man say anything to the customer because he, Mr. Porkola, was going to get the officer.

Incident 2 (December 30, 1997, Hallidie Plaza): Program Director Lazar stated that, upon finishing the painting of street artist spaces on Market Street, he took the streetcar back to the office, passed Hallidie Plaza, and observed former street artist Tim Dwyer - the same person who was in the photos taken by Mr. Porkola - standing behind the display of Alfred Gamarra. The display was open for business and there were no customers.

Incident 3 (January 9, 1998, Hallidie Plaza): Certification Clerk Worthy stated that Mr. Lazar had asked her to go to Hallidie Plaza to verify the numbering of the artists' spaces relative to the updated maps he was drafting. Prior to arriving at the Plaza, she went to another appointment; upon arriving at the Plaza, she saw former street artist Tim Dwyer standing behind Alfred Gamarra's table. The table was open for business; Mr. Gamarra was not present; there was a man sitting in front of the table. After verifying the numbered spaces at the Plaza, she asked Mr. Dwyer where Mr. Gamarra had gone. He told her Mr. Gamarra had gone to use a telephone. She proceeded to speak with other artists; during the course of fifteen minutes, she observed that Mr. Gamarra did not return.

The Commissioners received testimony from Mr. Gamarra and the following persons on his behalf:

Mr. Gamarra stated that he does not have a salesperson and has never had anyone sell for him in the twenty-five years he has been in the Program. He referred the Commissioners to the letters he and other persons wrote. With regard to the incident of December 21st, he said he came back with his pizza, and Ms. Tibbon never asked him to produce his license. He showed it when the Police officer asked him. He added that Ms. Tibbon yelled at him that she would take his license away. The incident took about ten to fifteen minutes, not thirty minutes. He was not absent from his display for more than ten minutes. When he returned, he asked his friend Tim if he had sold anything or had taken any money, and he told him "no."

Mr. Tim Dwyer referred the Commissioners to the letter he sent and stated that he is the person in the photos that were taken. He said that Ms. Tibbon refused to listen to his explanation of where Mr. Gamarra had gone; she walked off. When she came back, he was engraving a key chain for a friend. When Mr. Gamarra came back, Ms. Tibbon began "jumping up and down and saying 'I'm going to have your license'."

Ms. Margarita Katot stated that she was a friend of many of the street artists and has watched their tables for them at 5th and Market Streets because it is not sufficient for the artists to cover their tables to protect against people stealing merchandise.

Street Artist John Ndoli stated that he sells on Market

Street and has seen Tim Dwyer watch artists' displays but not sell.

Street Artist Manolo Aulis described the difficult existence of street artists and the necessity to have someone watch their displays for them; sometimes he lets a friend watch his table while he is away.

Street Artist Jimmy Sha stated that street artists working downtown experience many incidents of theft; an artist needs someone to watch his display if he goes to lunch.

Street Artist John Ammann stated that he has sold next to Mr. Gamarra for years and has not seen Mr. Gamarra have people sell for him. Mr. Dwyer watches Mr. Gamarra's merchandise, and so does Mr. Ammann.

Street Artist James Toolate stated that he has known Mr. Gamarra since the late 1960s and has never known him to have salespeople. He went on to say that there was one incident in which he himself nearly lost an entire tray of his jewelry to a thief; it was retrieved, thanks to the help of someone watching his display.

In response to questions from Commissioner Rogers, Program Director Lazar clarified that the Program has always allowed for an artist's display to be watched while the artist is temporarily absent, so long as the person watching the display does not take money or does not, as the ordinance says, "sells, offers for sale, or solicits offers to purchase" on behalf of the artist. To have a person who is watching an artist's table demonstrate working on an item of the artist could constitute a solicitation and ultimately open the door to receiving money.

Ms. Tibbon told the Commissioners that Mr. Porkola's and her concern was not that there was a person other than Mr. Gamarra behind the stand but that the person was working on one of Mr. Gamarra's items and gave it to a customer, and that while no money changed hands, she did hear Mr. Dwyer tell the customer to "come back later or take it as a gift."

Mr. Dwyer refuted this and said Ms. Tibbon told the Police officer that she saw money taken.

In response to a question from Commissioner Stermer, Mr. Lazar stated that the Program has no history of Mr. Gamarra

having a person behind his display take money for his goods. However, Mr. Lazar chose to submit this charge as a case because of the photos showing Mr. Dwyer engraving on one of Mr. Gamarra's items and because of the accompanying written report from the Advisory Committee: "Non-licensed person engraving ... money clips ... transacting sales, although when non-licensed person observed Committee member Tibbon, he suggested to potential customer that no cash should change hands ... customer took engraved money clip without paying and agreed to return w/payment when committee members had left."

Commissioner Mayer stated that consideration should be given to clarifying in writing a policy that allows for an artist taking a break to leave his or her wares uncovered so long as someone guards them and does not transact business. The Commissioner acknowledged the difficult environment for artists and stated that the artists should be able to maximize the exposure of their wares, be able to show them 100% of the time they ooccupy a space.

Commissioner Meyer noted that there was no evidence presented that a money transaction had actually occurred. Considering this and the fact that Mr. Gamarra had an umblemished history in the Program, there did not seem to be grounds to levy a penalty.

Commissioner Rogers opined that selling is not exclusively the act of money changing hands. Furthermore, while it is all right to leave a display uncovered and to have someone guarding the display, he felt that the act of that person talking to customers about the wares constitutes selling.

Commissioner Stermer agreed that a person, other than the artist, who guards the display and takes an active role with customers becomes a salesperson for the artist. The Commissioner noted, however, that Mr. Gamarra had brought a number of people who testified that he was not in the habit of having a salesperson, while there was only one Advisory Committee member - not both - who testified to hearing a conversation whose wording itself was in some dispute since the member's written account was not what the member had verbally related.

Commissioner Rogers stated that he has great faith in the abilities of the Advisory Committee members who represent some of the most professional aspects of the Program; if

they had submitted this particular case, it meant that the issue was the integrity of the Program, and the case therefore interested the Advisory Committee and the staff. On the strength of the testimony heard by the Program Committee, he did not feel that a penalty could be imposed at this stage; but he felt that Mr. Gamarra should receive a warning against "crossing the line" from merely having a person watch his table to allowing that person to operate his engraving machine and talk to a potential customer - an act which the Commissioner said was "alarming."

Commissioner Rogers moved that Mr. Gamarra be warned against having a person who guards his display in his absence take any active role with customers, or discuss Mr. Gamarra's items, or use Mr. Gamarra's machinery or tools; the motion was seconded by Commissioner Stermer and unanimously approved.

Commissioner Meyer moved that issuance of renewal of Mr. Gamarra's certificate be approved; the motion was seconded by Commissioner Villa and unanimously approved.

Commissioner Rogers turned the chairmanship over to Commissioner Stermer at 3:57 p.m. as he had to leave the meeting in ten minutes.

II **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE ISSUANCE OF CERTIFICATE OR RENEWAL OF CERTIFICATE**

Matt Summers - Certificate # 387. Alleged violation: Exceeding display length regulation (Ord. 41-83, Section 2405(c)(4)), third violation.

Program Director Lazar informed the Commissioners that, in keeping with the Commission's procedures, the case was before the Program Committee because it represented an alleged third violation of a charge of "minor violation." One year previously Mr. Summers had signed a statement with the Program promising compliance with all the Program's rules and regulations, after having been observed on two occasions exceeding the display length regulation. Almost a year later, it was reported to the office that Mr. Summers allegedly committed the same violation of December 24, 1997 by allowing his display to occupy two street artist spaces on Grant Avenue at Sutter Street. This report resulted in a notice to Mr. Summers that the renewal of his certificate would be withheld pending a decision by the

Street Artists Program Committee.

Mr. Lazar went on to say that the witness who reported the incident had been notified to appear and had given the Program Director assurance that they would appear. The witness was not present. Commissioner Stermer noted that no one was present to testify to the incident and that no photographs of the incident had been submitted.

Mr. Summers told the Commissioners that on the day of the incident, Street Artists David Brancato and John Ammann selected spaces "Grant-23" and "Grant-22", respectively, in the lottery. When Mr. Summers came to the Grant Avenue location in the afternoon, Mr. Brancato and Mr. Ammann were occupying their spaces. Mr. Summers conversed with them for three quarters of an hour, after which Mr. Brancato told him that he intended to move his display to another location, "Grant-26." While Mr. Brancato began to move, Mr. Summers placed his stand in the five-foot area between the two spaces and went across the street to a store; when he returned, Mr. Brancato left and he moved into the vacated space. He stayed in the space for nearly two hours, during which Mr. Ammann continued to sell in the other space, "Grant-22." Mr. Ammann remained when Mr. Summers left for the day.

Mr. Ammann told the Commissioners that he was in his space all day until 7:00 p.m. and was the last to leave. During this time, he said, Mr. Summers never infringed on his space.

Commissioner Meyer dismissed the charge for lack of evidence; the motion was seconded by Commissioner Villa and unanimously approved.

Commissioner Rogers left the meeting at 4:15 p.m.

III HEARING ON PROPOSAL TO REQUEST BOARD OF SUPERVISORS TO DESIGNATE AS A SALES AREA FOR THE STREET ARTISTS PROGRAM A WEBSITE ON THE INTERNET

Street Artist Bill Clark told the Commissioners that his original concept of the proposal was to go to the Board of Supervisors to designate the Internet as a sales area for the Program, as the Board has the authority to designate public places or streets as areas in which street artists may sell. Furthermore, it would be necessary to obtain clarification on whether the Internet is considered a

public place and whether the Program could obtain a website designated as a sales location for the artists. San Francisco could be the first city in the nation to offer opportunity to artists who may not be able to afford a website to expose their wares to the public over a website provided by a City program.

On the other hand, Mr. Clark said, after discussing the proposal with the Art Commission's Cultural Equity Grants Program Director Lawrence Thoo, it may not be necessary to involve the Board of Supervisors. At the present time the City was investigating the issue of opening the door to sales over the Internet. In the meantime, there would be no problem for the Program to have a computerized listing of its artists, similar to a gallery registry, so long as each artist gave his or her approval of being listed.

Commissioner Meyer stated that monthly funding of the project could be an issue.

Former-street artist John Bass stated that there are numerous public services and places in which the public must pay to receive the service: the transit system, museums, parking garages, to name a few.

In response to questions by Commissioner Stermer, Mr. Clark stated that the public's having to reach an artist through the Program is a means of assuring the public that the artist is verified by the Commission as making his or her own arts and crafts. The website could also offer pictures of the artists' arts and crafts, brief biographies, maps of the street artist locations, and Program announcements and agendas. Mr. Clark also stated that funding to set up the project could come from the Program's reserve of $100,000 in fees revenue that has been carried over from prior years.

Street Artists Mike and Margaret Granatt and John Bass expressed support of the proposal for the following reasons: it would allow more exposure for people who are unable to be selling due to the time they must spend in their studio; it would add legitimacy to the artists' work just as the Art Commisison's certificates exhibited on their displays do; the Internet could get around the press media, which has traditionally ignored the street artists, and present the artists to the public.

Program Director Lazar expressed his endorsement because

the project would showcase the artists' wares during the winter season which traditionally hampers the artists' ability to exhibit outdoors and to find customers willing to look at art in the rain; it would also be of great benefit to elderly and disabled street artists who are not able to attend the daily outdoor lotteries for spaces.

The Commissioners expressed their endorsement of the idea of having the Program's artists on the Internet. Commissioner Freebairn-Smith urged the staff to check with the City Attorney, at the proper time, on issues of selling over the Internet. Commissioner Stermer suggested that the artists submit a written proposal listing various points that would benefit the artists; upon receiving it, the Commissioners would proceed with further investigation.

IV REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

Program Director Lazar reported that he had completed the writing and editing of the fifth edition of the Program's handbook of laws, procedures, regulations, maps, and commentary. Entitled Street Artists Program, the 248-page book was at the City Reproduction bureau and was expected to be published by the end of the month.

Now that the manuscript was completed, the Program Director has returned to processing the cases of street artist violations that have accumulated since November.

Commissioner Meyer moved to adjourn the meeting; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

The meeting adjourned at 4:44 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar, Director
Street Artists Program

SF
A70.75
#2
3/11/98

SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, March 11, 1998
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
MAR 0 2 1998
SAN FRANCISCO
PUBLIC LIBRARY

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE PROGRAM DIRECTOR'S RECOMMENDATION OF DENIAL OF CERTIFICATE OR RENEWAL**

Guillermo Mora-Chavez - Certificate # 5173 (expired 12/27/97). Alleged violation: Conducting business in a disorderly, improper, hazardous manner (spraypainting of craft on the sidewalk), three incidents of violation.

II **HEARING ON CITY ATTORNEY CLARIFICATION ON STREET ARTIST CERTIFICATION OF SELF-PUBLISHED BOOKS; QUESTION ON ALLOWING THE EMPLOYMENT OF A THIRD PARTY TO REPRODUCE AN ITEM CREATED BY A STREET ARTIST**

III **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

IV **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VII **ADJOURNMENT**

S F A C

PROGRAMS
IVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
TURAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

REET ARTISTS LICENSES
SUITE 70
415.252.2581

OMMISSION GALLERY
VAN NESS AVENUE
415.554.6080

TY AND COUNTY OF SAN FRANCISCO

25 VAN NESS AVE. SUITE 240, SAN FRANCISCO, CA. 94102 TEL. 415.252.2590 FAX 415.252.2595

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

March 11, 1998
Art Commission Conference Room
25 Van Ness Avenue, Suite 70
San Francisco, California

DOCUMENTS DEPT.
MAR 26 1998
SAN FRANCISCO PUBLIC LIBRARY

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, William Meyer, Dugald Stermer

Commissioners absent: William Villa

Staff present: Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, called the meeting to order at 3:12 p.m.

I HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE: HEARING AND POSSIBLE MOTION TO APPROVE PROGRAM DIRECTOR'S RECOMMENDATION OF DENIAL OF CERTIFICATE OR RENEWAL

Guillermo Mora-Chavez - Certificate # 5173 (expired 12/27/97). Alleged violation: Conducting business in a disorderly, improper, hazardous manner (spraypainting of craft on sidewalk), three incidents of violation.

The Commissioners ascertained that Mr. Mora-Chavez, who had been duly notified a full month previously, was not present, and that no one was present to represent him.

The Program Director gave background of the case. Mr. Mora-Chavez, at his screening of his wares, had been warned against spraypainting his paintings on the street because of possible injury to the public's health; he had agreed to refrain from doing so and to sell only his finished, spraypainted paintings. The Program subsequently received a complaint that, only two days after giving such promise, Mr. Mora-Chavez was spraypainting his craft (September 25, 1997) in street artist space "J-1A" on Jefferson Street; the report, called in to the Program office, identified him by his street artist certificate, "5173," and said that two adjacent street artists had to vacate their spaces. The report resulted in the Program Director's issuance of a written warning to Mr. Mora-Chavez.

There followed reports of two further incidents of his allegedly spraypainting: October 13th and 18th, both times in space "J-1." This resulted in the Program Director

CITY AND COUNTY OF SAN FRANCISCO

sending him a "NOTICE OF INTENT TO RECOMMEND DENIAL OF CERTIFICATE OR RENEWAL," offering him an opportunity to meet with the Program Director to request consideration of renewal of his certificate. Mr. Mora-Chavez never made an appointment to meet with the Program Director. His certificate expired on December 27, 1997. In keeping with the Commission's procedures implementing Section 5 of the street artist ordinance, a hearing was scheduled with the Street Artists Program Committee to act on the Program Director's recommendation to deny issuance of a certificate or renewal.

Commissioner Rogers ascertained that since last December the Program has received no reports or observations of Mr. Mora-Chavez on the street.

Commissioner Freebairn-Smith commented that an artist who spraypainted his craft in public was, in essence, a "performance piece"- a major degree of its success was due to the public's "watching it happen" with gratuities given for the performance. If the activity is air-polluting, it could be a problem for the street artists.

Program Director Lazar stated that, in addition to such activity being a health problem for the artists and the public, there was the problem that the activity was being done on property under the jurisdiction of the Port Commission which never authorized the activity and, in fact, wrote to the Police to enforce against such activity on Port property.

Commissioner Stermer moved that Guillermo Mora-Chavez be found in violation of the street artist ordinance for conducting business in a disorderly, improper, hazardous manner; that the Program Director's recommendation of denial of certificate be approved; and that, should Mr. Mora-Chavez re-apply for a certificate, any future certification be contingent upon approval of the Street Artists Program Committee; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

II **HEARING ON CITY ATTORNEY CLARIFICATION ON STREET ARTIST CERTIFICATION OF SELF-PUBLISHED BOOKS; QUESTION ON ALLOWING THE EMPLOYMENT OF A THIRD PARTY TO REPRODUCE AN ITEM CREATED BY A STREET ARTIST**

Program Director Lazar introduced Special Legal Assistant Adine Varah, Office of the City Attorney, who was advising

the Street Artists Program in the absence of Deputy City Attorney Miriam Stombler. In the winter of 1993-94, Columbia University published in its Journal of Law and the Arts a report by Ms. Varah (Kernberg) entitled "The Right to Bear Art" which analyzed the leading street artist programs in the country and concluded that San Francisco's was the best of its kind. Commissioner Rogers expressed his appreciation to her for the "impressive" study.

Prior to the hearing, Mr. Lazar had furnished Ms. Varah with a copy of the City Attorney's clarification on "Street Artist Certification of Self-Published Books" and also furnished her with a copy of Street Artist Bill Clark's January 14, 1998 letter disagreeing with key elements of the clarification.

Mr. Clark submitted a copy of Black's legal definition of the word "employ" and stated that he did not disagree with all points in the City Attorney opinion. His issue was not whether an author's book was a work of art but whether the use of the term "handcrafted" would be the qualifier in determining whether an art or craft item should be offered for sale under the street artist ordinance.

Referring to page 115 of the Program's recently published fifth edition handbook, Mr. Clark pointed to a provision in the voter-mandated street artist ordinance (Proposition "L" of the November 4, 1975 election): "Sec. 3(c) a declaration under penalty of perjury that the art or craft item for which applicant seeks certification is of the applicant's own creation or the creation of the applicant's family unit, and that the applicant neither employs other persons nor is employed by another person in the production of the art or craft item for which the applicant seeks certification." Mr. Clark stated that, in legislation, in the construction of a statute, the courts usually acknowledge the ordinary meaning of a word unless there is a specific definition of the word in the ordinance itself; Black's law dictionary provided an excellent reference for ordinary meanings of words like "employ."

Mr. Clark went on to refer the Commissioners to the definition of "handcrafted item" which had been added to the street artist ordinance and could, if necessary, be amended by the Board of Supervisors: "An item predominantly created or significantly altered in form by the street artist." Even though this definition may differ from the dictionary's

definition, the Art Commission was bound to administer the definition as stated in the legislation to determine whether an applicant's item is "handcrafted." Mr. Clark requested that an amendment be made to the definition to provide for a handcrafted item to be "any item predominantly created by hand or significantly altered in form by hand by the street artist."

In clarifying his statement, Mr. Clark said that while a literary book or a cassette may, under the present definition of "handcrafted item," be allowed under the street artist ordinance, they still do not pass the test for a handcrafted item, under the ordinance's "family unit" definition, to be made by the artist without employing another person in its production.

The "family unit" definition which provides for an applicant to declare under penalty of perjury that he does not employ another person in the production of his item reflects the will of the voters, Mr. Clark stated, and this may contradict the City Attorney opinions allowing for the certification of multiple copies of books and cassettes produced by persons or firms hired by the street artist.

Mr. Clark went on to say that, as a creator of cast jewelry, he sculpts his wax, makes his mold, casts and finishes his piece, and does not - in keeping with the ordinance - hire anyone to help him. Similarly, a writer of a book does not have to hire a printer and a bookbinder in order to produce his book; while he may have to pay to use facilities, he can photocopy, collate and bind the pages himself.

Commissioner Stermer questioned whether a book that was written and designed by its author, type-set by an outside printer but printed and bound by the author himself, would qualify under the street artist ordinance. Mr. Clark responded that it would not because of its hiring of the printer for the one step involved in its production.

Commissioner Rogers questioned how the use of commercially manufactured beads was allowed under the ordinance. Program Director Lazar responded that what was allowed was any artist to buy commercially manufactured beads but not to hire someone to make the beads for the artist, and that the craft was in the artist's arranging and stringing of the beads. Similarly, while an artist who silkscreens

his design on a T-shirt is allowed to buy ready-made T-shirts, the artist is not allowed to hire a person to manufacture the shirts for him nor to hire a person to silk-screen the designs for him.

Upon request by Commissioner Rogers, Special Legal Assistant Varah commented on Mr. Clark's presentation. There appeared to be agreement between Mr. Clark's views and the City Attorney opinions that any artist who does all of the production of an item, including multiple copies of the item, is allowed to sell an unlimited number of copies of the item. A current "gray area" exists in which certain artists have been allowed to sell limited numbers of copies of their work when the copies are made by someone hired to do so. Recognizing that published books have a place in the Program, the question arises: How do we preserve the original goals of the Program and come up with a guideline in order to avoid the situation of mass-produced books, or other multiple items, undermining the availability of spaces for other artists?

Commissioner Stermer questioned whether there was a difference between allowing a photographer to sell in limited edition copies of his photos printed by an outsider for him and an author wishing to sell copies of his book which have been produced by a commercial publisher. The Program Director responded that, because the author did not physically print or bind the book, the author would be certified in the same manner as the photographer: he would be allowed to sell a limited edition of the books.

Commissioner Stermer stated that he did not feel that a book written and illustrated by an author but commercially published should qualify as a handcrafted item for certification.

Program Director Lazar stated that, in such situations, the Advisory Committee of Street Artists and Craftsmen Examiners evaluates whether the predominant or significant aspect of the book - i.e., its illustration and/or its writing - was created by the applicant, and this method of determination has been upheld in the City Attorney opinions in response to the Program Director's questions on whether books of writings and cassette tapes of performances qualify for street artist certification. In the matter of books, the City Attorney went so far as to state: "The Art Commission has a great deal of discretion to determine how best to resolve such practical

difficulties" as verifying that a literary work is an applicant's own creation.

Commissioner Freebairn-Smith questioned what the definition was of "significantly altered in form." Would the selling of a a publisher's text with the applicant's created cover meet the definition of "significantly altered"? Program Director Lazar responded that the mere contribution of the cover could not be considered as significantly altering the body of the book which is its text - the primary reason for the book's being offered for sale.

Commissioner Stermer stated that he felt the "essence of handmade" would be if an applicant designed the text - regardless of its not being his own - and gave it to an outsider to type-set, then printed it himself and bound it in leather himself. Even though the applicant commissioned a printer to type-set it, that contractor did not do a major portion of the product, for the product was predominantly handmade by the applicant.

The Program Director clarified that while the item may qualify as a handcrafted piece in that the applicant is predominantly and significantly altering the form of the paper and the leather, the very fact that the applicant employed someone to do a minor portion of the item could possibly be considered a violation of the family unit definition in the street artist ordinance - a definition that could only be changed by the voters.

The Committee heard from other speakers.

Mr. John Bass, former street artist and co-editor of the Program's fifth edition of laws, rules, and policies, stated that, with respect to self-published books, the production involved a question of skill: there was no skill in standing over a photocopying machine, and there was no qualitative difference between doing that job oneself and handing it over to an Office Depot or Kinko's clerk to do. There is no distinction in the "craftsmanship" that goes into that form of reproduction. He suggested that books be regulated similarly to other multiple-copy crafts as photography and printmaking, which would not cut a number of established craftspeople out of earning their living.

Street Artist Sharon MacDougall stated that this is an "art" as well as "handcraft" program, and that the "art" aspect should not be forgotten, as the "art" aspect of

a book is the beauty in its writing.

Commissioner Meyer stated the important distinction for him was the number of copies and advocated that the Program limit the same number of copies for self-published books as the number for photographic prints, with a possible cap of 500.

Commissioner Stermer mentioned that in the world of art a photographer who really wants to make a lot of money limits the prints, numbers them, and destroys the negative

Commissioner Meyer stated that he did not feel that writer should be barred from participating in the Street Artists Program, as writing is clearly an art form. If the rules in place seem to work for photographers, he did not see why they would not work for writers.

Commissioner Rogers asked the Commissioner if he felt an applicant should be allowed to take an established written work (by someone else) and "re-package it" with an attractive leather binder. Commissioner Meyer responded that he saw no problem in this, so long as the applicant would be selling a book cover and not selling the book.

Program Director Lazar submitted a copy of a commercially published book whose author, licensed by the Program, was hired by the publisher to illustrate famous San Francisco poems by other writers. In this case, the Advisory Committee had concluded that the significant feature of the item was its illustrations done by the applicant. In contrast with this, Mr. Lazar submitted a copy of a book whose author, licensed by the Program, wrote it entirely, included illustrations published a century ago, and paid a printer and bookbinder to produce it. (This was the item which prompted the Program Director to ask for a City Attorney clarification on whether a written book could be licensed under the street artist ordinance. In both cases, the books were printed and bound not by the applicant.

Mr. Clark stated that neither of the books could be considered a handcrafted item under the ordinance, since eac utilized the employment of an outsider for its production

Commissioner Stermer stated that he agreed with Mr. Clark he did not feel that the two samples of books or commercially printed photography qualified under the ordinance.

The Program Director informed the Commissioners of the 1983 City Attorney opinion which, contrary to the wishes of the Art Commissioners at the time, concluded that a street artist who composes or arranges music and performs it is entitled to be considered for certification to sell cassette tapes of the performance - even though someone else may be paid to record the performance, duplicate the cassette tapes, make the cover for the cassette box, etc.

Commissioner Freebairn-Smith commented that this was a legal precedent.

Ms. Kernberg stated that, with regard to Commissioner Meyer's favoring a numerical limit, she questioned whether distinctions could be made between a work that is a product of a commercial publisher and a work that is a product of a commercial copying facility.

Commissioner Rogers saw a problem developing in reference to quality: on one hand, the Program could allow someone who copies his own writing on a photocopier and staples it in its corner to sell 500 of it - and the Program would have to call it "art"; on the other hand, the Program could allow someone who writes something and goes to great lengths to create it into a splendid craft with a beautiful cover on it, and he too would be limited to the number he could sell. To the Commissioner, the second example would be a worthier craft which should allow the applicant to sell as many copies as he wished.

Commissioner Stermer said he did not feel it was appropriate for the Program to license an item that was commercially produced. He favored the applicant who took his writings to a photocopying facility, used the copier himself, and collated and stapled the editions himself, as qualifying for a street artist license.

Street Artist Susan Pete questioned how it would be possible for the Program staff to keep track of the numbers of edition copies being sold by the artists.

Commissioner Freebairn-Smith suggested the possibility of performers being restricted to selling their recordings exclusively in the Street Artists program and in no other market.

Commissioner Stermer stated that a writer should be allowed

to sell his book in the Street Artists Program if the book's "package" is substantially altered by him from the way it has been published commercially - his book may be published by Random House, but he could sell his original typed version in the Street Artists Program because the typed version is substantially altered from the book.

Expanding on the Commissioner's statement, Mr. Lazar gave as an example the possibility of a screenwriter like Robert Towne selling photocopies, which he himself had copied and bound, of his original typewritten screenplay of Chinatown which is currently being sold as a commercially published edition in bookstores. Under the terms of the City Attorney opinions, this would be allowed.

At the same time, under the City Attorney opinions, Mr. Clark and Mr. Lazar stated that the screenwriter would also be allowed to sell the commercially produced videocassette of the movie - in the same format as that being sold or rented at Blockbuster - because the movie was made from the script which he wrote; and this was what the Commissioners probably did not want in their Program.

Mr. Clark suggested that, should this matter be continued to next month's meeting, the language for "handcrafted item" be amended and submitted to the Board of Supervisors to stipulate that an item be "predominantly created by hand or significantly altered in form by hand by the street artist." This would further clarify the original meaning of "handcrafted item" in the ordinance. He also proposed that the City Attorney be requested to address the issue of "family unit" and to re-analyze the previous opinions, specifically to clarify the ordinance as to whether an applicant is or is not prohibited from hiring someone in the production of his item.

Commissioner Stermer viewed the problem as one of precedent: the door had been opened for photographers to sell commercially produced prints of their work. Perhaps, the door should be closed. Mr. Clark responded: "The camel's nose is under the tent; I'd rather kick the nose out than let the whole camel into the tent."

Commissioner Freebairn-Smith explored the marketing opportunities of musicians. In response, Mr. Clark emphasized that the Street Artists Program was started because the artists and craftspeople did not have marketing alternatives; whereas musical recording artists have had alterna-

tives like placing their mass-produced product in record stores.

Commissioner Stermer countered with an argument that artists and craftspeople also have the capability to license their designs - to sell their originals on the street while selling copies of the originals to stores like Gump's.

Street Artist Chrys Camperlino told the Commissioners that, in his opinion, the art of photography was in the seeing and not in the developing of a picture. He related that his daughter was told in college photography classes that there was little reason for her to learn to develop film unless she wanted to create some special work. In addition, Mr. Camperlino said, developing film is toxic. He went on to express that "every art is commercial" in that it always involves the purchase of components.

In response to questions from Commissioner Rogers, Mr. Camperlino stated that he had no problem with the Program's present criteria of numbering prints for sale.

Street Artist Scott Randle stated that, while he sells commercially produced prints of his photography, a good deal of time on his craft is spent in cutting and burnishing the windows of his mats, positioning his photos in the mats, and signing and numbering them - all "labor intensive," he said.

Street Artist Alex George stated that the art of her photography was in the selecting of the best pictures out of many, and that the process of film developing is a "totally different art." The Street Artists Program is an attractive marketplace for her in comparison with the slim chances of a publisher buying her photos.

Program Director Lazar, in response to Commissioner Rogers, stated that the accommodation for photographers to sell limited editions of their commercially produced prints was specified in the Art Commission's criteria adopted in 1977 and was not provided for in the street artist ordinance.

Mr. Clark stated that there was a difference between the purchasing and selling of a product which is totally produced by an outside agent and the purchasing of a commercially produced component creatively incorporated in the artist's artwork. In the first case, the artist selling

the item did nothing by hand to alter it. When something originally made by the artist is shipped out to be reproduced, the second generation of the item competes with the integrity of the artists who sell items made entirely by them.

Commissioner Stermer stated that in the "world of art" a photograph printed by a laboratory, with or without the photographer's participation in its developing, is considered the artist's original even if the lab publishes it. The Commissioner felt that the world of art has a more substantial role in the discussion than Mr. Clark was giving it.

Mr. Clark reiterated that there should not be an allowance for items made by outside agents to compete with items made entirely by street artists, for a limited number of selling spaces in the city.

Street Artist Dikran Knoble stated, as a street artist, he has been selling his photographs for twenty-five years, and that the artwork displayed on the streets now is more "sophisticated" than it was twenty-five years ago. If a photographer has a good picture, he should not be penalized for selling multiple copies of it. Photos offered for sale for $50 will not make much money, whereas photos offered for $10 will earn a living for a photographer. He went on to say that the Program gives him a source to sell the way he wants; if he were to come under regulations telling him how many copies he could sell, he would be "penalized for being a good photographer." He was not in favor of the current limited editions criteria. He said that successful commercial photographers do not make their own prints, as Ansel Adams did not.

Commissioner Stermer countered by saying that he himself had worked with Ansel Adams and that Mr. Adams "made all of his own prints ... in the darkroom day and night; the other people who worked in the darkroom were his assistants." The Commissioner went on to say that in photography the art happens mostly in the lens, as it does when a writer writes, and not how it is reproduced.

Mr. Knoble agreed: a good writer who does not have the means to put his writing together seeks out a place which will put it together well so that a living can be made off it; similarly, the Street Artists Program should give

the artist an opportunity of making a living. The public nowadays is more sophisticated than it was twenty-five years ago: buyers want a product to look like it's hand-made but not like it's made by themselves.

Commissioner Meyer noted that the Commission was in receipt of previous City Attorney opinions as well as language in the ordinance and therefore had two choices: (a) ask the Board of Supervisors to make changes in the language; or (b) continue implementing the current criteria unless the City Attorney's office changes its earlier opinions. He added that he would not be willing to go to the Board of Supervisors to amend the ordinance.

Commissioner Rogers stated that it would be good policy for the minutes of the meeting to be prepared to reflect in detail the discussion, especially for the benefit of any street artist who requests the minutes. The Commissioner suggested a subsequent public meeting on the issue with no motion and no public testimony in order to draft a document which could be circulated among the street artists and engender future public testimony.

Commissioner Freebairn-Smith asked Mr. Knoble the question: If the Program limited him from selling a particular photo of his elsewhere, would he, as well as other photographers or writers in the Program, feel that it would be an unfair constraint? Mr. Knoble responded that he should not be "penalized for being successful."

Commissioner Rogers stated that the matter would be continued to the following month's meeting with public testimony limited to three minutes per person in addition to a presentation.

Both Commissioners Meyer and Rogers requested that Ms. Varah attend the next meeting.

III **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

Program Director Lazar reported on two recent achievements: (1) The Board of Supervisors on March 9th approved the Art Commission's request for permanent designation of ten former temporary selling spaces on Beach Street, north side, Larkin to Polk Streets; and (2) the fifth edition of the Commission's handbook of laws, rules, and procedures, entitled Street Artists Program, had been published. Mr.

Lazar expressed his appreciation to the Commissioners and to former Street Artist John Bass who wrote the book's "commentary" chapters as well as its "introduction."

Mr. Bass commended Mr. Lazar for writing the section on violations and hearing procedures, editing the section of laws and policies, re-drawing all of the maps of the selling locations, and diagramming the major regulations governing a street artist space. Mr. Bass stated that his and Mr. Lazar's purpose had been to construct a book which would advise Art Commissioners, staff, and street artists in their participation in the Program.

Commissioner Rogers thanked Mr. Bass for his continued interest in the Program.

Mr. Lazar stated that the next step would be the publishing of a "deluxe anniversary edition" which would contain not only the contents of the fifth edition but an in-depth history of the early years of the Program written by Mr. Bass, as well as historic photos - particularly, of the beginning of the Program and the Program's 25th anniversary celebration. Commissioner Rogers commented on the value of the project but acknowledged the Program Director's long list of more immediate and vital tasks.

There being no further business, Commissioner Rogers adjourned the meeting at 5:00 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

SF
A70.75
#2
4/8/98

DOCUMENTS DEPT.
MAR 25 1998
SAN FRANCISCO
PUBLIC LIBRARY

SAN FRANCISCO ART COMMISSION

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
SF SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, April 8, 1998
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING ON APPEAL OF RECOMMENDATION OF ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS TO DISAPPROVE ITEM; POSSIBLE MOTION TO APPROVE ITEM**

Orfa Gonzalez - Certificate # 5148. Appeal of February 26, 1998 recommendation of Advisory Committee of Street Artists and Craftsmen Examiners that Ms. Gonzalez not be certified to sell submitted silkscreen designs.

II **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE PROGRAM DIRECTOR'S RECOMMENDATION OF DENIAL OF CERTIFICATE**

Miguel Castro - applicant for street artist certificate. Alleged violation: Conducting business in a disorderly, improper, hazardous manner (spraypainting of craft in open-air public place); reported by Police Department.

III **HEARING ON CITY ATTORNEY CLARIFICATION ON STREET ARTIST CERTIFICATION OF SELF-PUBLISHED BOOKS; QUESTION ON ALLOWING THE EMPLOYMENT OF A THIRD PARTY TO REPRODUCE AN ITEM CREATED BY A STREET ARTIST** (hearing continued from 3/11 meeting)

IV **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTIST PROGRAM**

V **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VI **ADJOURNMENT**

CITY AND COUNTY OF SAN FRANCISCO

S F
A C

SAN FRANCISCO ART COMMISSION

).75

/98 PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
.TURAL EQUITY GRANTS
. SYMPHONY CONCERTS
PUBLIC ART

TREET ARTISTS LICENSES
SUITE 70
415.252.2581

OMMISSION GALLERY
I VAN NESS AVENUE
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

April 8, 1998
Art Commission Conference Room
Suite 70
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
APR 24 1998
SAN FRANCISCO
PUBLIC LIBRARY

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, William Meyer, Dugald Stermer

Commissioners absent: William Villa

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, called the meeting to order at 3:05 p.m.

I HEARING ON APPEAL OF RECOMMENDATION OF ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS TO DISAPPROVE ITEM; POSSIBLE MOTION TO APPROVE ITEM

Orfa Gonzalez - Certificate # 5148. Appeal of February 26, 1998 recommendation of Advisory Committee of Street Artists and Craftsmen Examiners that Ms. Gonzalez not be certified to sell submitted silkscreen designs.

Program Director Lazar explained that at the end of last year and the beginning of this year Ms. Gonzalez submitted to the Advisory Committee for approval new designs for silkscreening onto shirts; the Advisory Committee, however, disapproved the designs. In each of the screenings, Ms. Gonzalez failed to produce a complete body of evidence, and the Advisory Committee was not convinced that she was the creator of the designs. In response to her request for an appeal, Mr. Lazar requested her to bring to the Program Committee hearing the finished silkscreened designs on shirts which she had shown to the Advisory Committee, the screens to match the finished designs, the original drawings for the screens and finished designs, and paper, pens, and pencils to enable her to draw the designs in front of the Program Committee.

While the Commissioners examined her submitted designs, Ms. Gonzalez, through interpreter Julio Bonilla, stated that, after receiving the Advisory Committee's denial in December, she returned in January with the screens of the design to which she had added a new element to the design,

CITY AND COUNTY OF
SAN FRANCISCO

but this caused the Advisory Committee to further doubt that she was the creator of the original design. In the last review (February 26), she said that the Advisory Committee did not permit her to draw the design.

Commissioner Rogers asked Ms. Gonzalez to sit at a table and draw the design while the Program Committee would take up other matters on its agenda.

II **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE PROGRAM DIRECTOR'S RECOMMENDATION OF DENIAL OF CERTIFICATE**

Miguel Castro - applicant for street artist certificate. Alleged violation: Conducting business in a disorderly, improper, hazardous manner (spraypainting of craft in open-air public place); reported by Police Department.

Commissioner Rogers ascertained that Mr. Castro was not present, that there was no one to speak on his behalf, and that he had been notified a full month previously to appear.

Program Director Lazar explained that, at the examination of applicants' wares on February 26th, Mr. Castro was told by the Advisory Committee that he would be certified to sell his finished, spraypainted paintings, and he was warned against spraypainting in public places. Prior to his screening, the Program had received complaints by street artists as well as the Port Commission against persons who were spraypainting on Jefferson Street (Port property). Mr. Castro had been one of the individuals observed in this activity on the north side of Jefferson Street, at Hyde, in a parking lot.

Officer Robert Gin testified that he had frequently observed Miguel Castro in the parking lot on the north side of Jefferson Street with a crowd of twenty-five or thirty people around him watching him do his work. He would take fifteen to twenty minutes to complete a picture. While Mr. Castro would wear facial apparatus for spraypainting, "there were fumes around all these people, and he would constantly, without even thinking of other people ... would use spraypaint and just spray pieces of work." The first time the officer saw him was before the winter holidays, and he ticketed him for violating MPC 869 (selling without a permit). He saw him again after the start of the year and notified Mr. Lazar. Two weeks ago he observed him

in the process of spraypainting again; the officer began to write him a ticket when he was called to attend an accident in the next block; when he returned, Mr. Castro had left.

The officer went on to say that Mr. Castro "produces" his work "right there on the sidewalk," and the officer overheard "a couple of times" Mr. Castro, after finishing a work, tell the crowd: "'Twenty-five dollars for my piece of work! However, any donations would be fine.'"

Officer Gin also stated that he informed Mr. Castro of health hazard engendered by the spraypainting, and that this related particularly to the children in the crowds watching him spraypaint - to which, according to the officer, Mr Castro responded, "Well, that's okay."

Officer Gin further stated that Mr. Castro had shown him a letter from the property tenant giving permission for Mr. Castro to be there; however, the property was under the jurisdiction of the Port Commission which had not given him permission.

Officer Gin summed up his opposition to Mr. Castro engaging in spraypainting activity in public, as follows: it constituted a violation of Municipal Code Section 869 and a violation of the street artist ordinance.

Commissioner Rogers ascertained that the Advisory Committee's warning to Mr. Castro was reflected in the Advisory Committee's minutes.

In response to questions by Program Director Lazar, Officer Gin affirmed that on February 26th, the day of Mr. Castro's screening by the Advisory Committee, the officer telephoned Mr. Lazar to say that Mr. Castro had told the officer he was getting screened because Mr. Lazar had told him that, with a street artist license, he could then continue his spraypainting activity. Officer Gin added that, after learning that this was not true, he informed Mr. Castro that he could not continue in his activity.

Commissioner Rogers noted that Mr. Castro had been duly warned by both the Police Department and the Art Commission, had also received sufficient notice of his hearing, but had continued in his spraypainting activity.

Commissioner Freebairn-Smith noted that if Mr. Castro is

not a street artist certified by the Art Commission, his activity remains within the jurisdiction of the Police, that restraining him from continuing in his activity is a Police issue.

Program Director Lazar pointed out that, weeks after notification of the hearing had been sent to him and after Officer Gin had warned him, Mr. Castro was observed spraypainting in public. Mr. Lazar submitted additional evidence: a photograph the Program had received from a street artist showing Mr. Castro kneeling over his work and spraycans, with the public, including a child, watching him; the back of the photo was imprinted with the date and time, "03/14/98, 04:02P", and contained the inscription, "I witnessed spraying," with the photographer's name (which was kept confidential).

Commissioner Meyer moved that applicant Miguel Castro be found in violation of the street artist ordinance by conducting business in a disorderly, improper, hazardous manner, and that issuance of a street artist certificate be denied; the motion was seconded by Commissioner Stermer and unanimously approved.

Commissioner Rogers stated, for the record, that the calibre of Mr. Castro's finished work would normally be welcomed into the Street Artists Program, but the activity of his spraypainting in public is not.

III **HEARING ON CITY ATTORNEY CLARIFICATION ON STREET ARTIST CERTIFICATION OF SELF-PUBLISHED BOOKS; QUESTION ON ALLOWING THE EMPLOYMENT OF A THIRD PARTY TO REPRODUCE AN ITEM CREATED BY A STREET ARTIST** (hearing continued from 3/11 meeting)

Commissioner Rogers informed the attendees that his Committee had received "the most thoughtful letters" on the issue, including Program Director's letter to Special Legal Assistant Adine Varah which summarized the issue. In addition, the detailed minutes, as requested, of last month's meeting reflected a thorough airing of the subject thus far. The Commissioner said that the purpose of the present meeting was for the Commissioners to continue taking testimony with a three-minute time limit imposed and debates avoided.

Street Artist Bill Clark, who had requested that the issue be heard, stated that since the last hearing he presented the Program Director with further information regarding

the legislative analysis which was included in the Voters Handbook for the election of November, 1975. He emphasized that the issue he brought to the Program Committee was not that an analysis be made to verify that each street artist product brought to the Art Commission is handmade; the issue was whether the Program was going to limit itself to certifying only handmade items. Relative to this, he had asked the Program Director to forward to Ms. Varah a December 17, 1984 City Attorney opinion ("Street Artist Program Legislation") written one year after the 1983 opinion on allowing cassette tapes in the Program. In the 1984 opinion, the City Attorney referred to the intention stated in the Voters Handbook: "The primary duty of the Advisory Committee, as described to the voters, is to determine the authenticity of street artists' wares, that is 'to make sure street artists' work is handmade.'" Mr. Clark further pointed to another statement in the opinion: "...The fundamental principle is that the intent of the enactors should be ascertained in order that the purpose of the law may be effectuated. ... Where there is uncertainty as to the meaning of language enacted by the voters, ballot arguments and analyses contained in a voter's information pamphlet may be utilized in construing the voters' intent. ..."

Mr. Clark submitted an actual November, 1975 Voters Handbook to the Commissioners and stated that if the Art Commission decides that its purpose is to screen handmade items, then the issue of whether photographs or prints qualify should be heard by both the Program and Advisory Committees to determine standards for those items. What was presently before the Commission was to decide whether "to open the gates" to certifying non-handcrafted items.

Street Artist Edward Steneck stated that he wrote to every Art Commissioner. In reference, he said, to "page 3, paragraph 1 of the letter sent to the City Attorney's office by Bill Clark through Howard Lazar," Mr. Steneck quoted a passage dealing with "Reasonable and practical construction pursuant to legislative intent" whereby "...statutes must be given a reasonable interpretation according to the real, or at least apparent or evident, intention of the law-making power. ..." Mr. Steneck stated that the general purpose of the statute, voted on by the people of San Francisco, was to allow artists and craftspeople to sell their own creations on the street, and that this was a reasonable interpretation. What was <u>not</u> wanted was commercial products whose sellers had no part in their

creation and would thereby compete with similar products in stores. The artwork for sale in the Street Artists Program is the personal creation of the Program's artists and craftspeople; this artwork is not generally for sale in stores except in those stores to whom some artists had wholesaled their work.

Mr. Steneck went on to say that "art does not necessarily require the same handwork that a craft does; art is many things with an emphasis on vision, inspiration, and skill." He stressed that "the means of reproduction of art is not as important as it may be for craft because art is mostly concerned with vision." If it became impossible to have art on the street, the Program would become a program of predominantly jewelry, T-shirts, and funsketches. Mr. Steneck asked that a "reasonable interpretation" be made of the statute.

Commissioner Rogers thanked Mr. Steneck for his "exceptional" letter.

Street Artist Sharon MacDougall invited the Commissioners and Ms. Varah to view a display in the room of "samples of artwork that is being threatened." She showed a variety of "very creative" artwork from the street artists which included "photographs of one-time events"; prints of original paintings by Martin Tang whose poster for the Program's 25th anniversary was selected from other artists' entries by the Art Commission; and the prints of others. Ms. MacDougall showed an original which, she said, was worth $1,500, a price which the artist could hardly fetch on the street nor be able to produce such one-of-a-kind work in quantity so as to be competitive on the street.

Ms. MacDougall went on to say that many street artists are getting much more creative than they have been in years because they have now been able to affordably reproduce their originals.

Street Artist Mike Granatt stated that he felt the real question was "what is an art and what is a craft?" In looking at the displayed samples of work, he said that the art is not the question; the question is whether the method of reproduction alters or adds to the orignal art. If the method of reproduction does not add to or alter the original art and is, in essence, insignificant, it should be allowed to be done by a third party so long as the third party reproduces exactly what the artist created.

So long as the reproduction is, he said, an exact copy, he did not feel the ordinance would be violated.

Street Artist Barbro Haglund, in response to questions by Commissioner Freebairn-Smith, stated that so much has happened in technology that cannot be ignored; if a laser print can be made of good quality and a customer wishes to buy it, the print should be allowed in the Program so long as the customer is told it is a copy.

Street Artist Virginia Travers stated she was one of the artists whose prints were being displayed at the meeting, and that much handwork goes into the print once it comes back to her from the commercial copier; the artist mounts, mats, frames, and signs the print. She herself handcolors much of the prints she gets back. Many photographers have to trim the photographs and mount them on board or on magnets; some incorporate the photos into jewelry. She reiterated that the print she receives from the lab is just a component and not the finished product.

Commissioner Rogers thanked Ms. Travers for her letter.

Street Artist Bob Clark stated that he did not feel that the issue was a question of what is art but an issue of what constituted a "handmade art" or a "handmade craft." In viewing the samples on display, he said that there was no denying that the prints were art, but he observed that only one of the prints was signed and numbered, whereas signing and numbering was a condition that photographers and printmakers agree to when they enter the Program. He was disappointed that such artists have not adhered to this "honor system." The question was not "what is art?" but "what handwork is being done" by the individual on the finished product offered for sale on the street.

Street Artist Mark Monsarrat stated that he has sold both printed and handpainted lithographs; the advent of new technology has become a boon to the streets and has allowed him to be more creative. He stated that he has always numbered his prints.

Street Artist Julio Bonilla stated that he has viewed for hours and hours people making their original work and selling it.

Street Artist Dick Knoble disputed the Program's existing system of requiring printmakers and photographers to number

the prints of limited editions: just numbering an object of art "doesn't make it art." The numbering is also difficult to regulate. He stressed that so long as the artist creates the original and it is reproduced (by someone else) to look exactly like the original, then the artist should be allowed to sell as many duplicates as he wishes.

Commissioner Rogers ascertained from Commissioner Stermer that a numbered print is, to the public, more valuable than a non-numbered print so long as it is evident that the numbered print belongs to a limited edition.

Street Artist Matt Summers stated that he has been selling his photographs for twenty-four years and that he felt the numbering system was wrong because it gave a false impression to "the naiive buyer." He went on to say that the term "handmade" inserted into the law was "to address crafts rather than images which would be photos and art" in order "to placate the merchants" so that they would not be competing with the same items of the artists. To judge art and photography on the same level with crafts, therefore, was unfair. Furthermore, the fact that he could take his own created image, recorded onto a negative, to any photographic lab and have it duplicated proves that the taking of the image was "handmade" by himself.

Street Artist Alex George stated that when someone does a watercolor or writes a book, the person is starting with blank pages. The person is doing an "act of creativity"; the only time when there is any machinery involved "is that one second of photocopier." To say that a copy is totally made by someone else "implies that you went to a store" and bought a quantity of someone else's pictures, all matted and wrapped, "and you're" selling them. Ms. George went on to say that even if the Commissioners did not consider a print to be the artist's own work, they should consider it with its mounting, mat selection, and packaging as an assembly, which describes some of the other acknowledged crafts in the Program. She felt that the term "handmade" was being applied only to the arts in this issue. If she had to do an original picture each time she sold one, then a writer should have to write a new book each time he sold one copy - "We'll all burn out!"

*

Commissioner Rogers stopped the hearing to return to Item I, "HEARING ON APPEAL OF RECOMMENDATION OF ADVISORY COM-

MITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS TO DISAPPROVE ITEM; POSSIBLE MOTION TO APPROVE ITEM."

The Commissioners examined a drawing executed in colors by Ms. Orfa Gonzalez during the preceding discussion and compared it with the design on her submitted T-shirt. Commissioner Meyer stated that it appeared that Ms. Gonzalez had replicated the design.

Commissioner Stermer moved that Ms. Gonzalez be approved to sell the silkscreened design as submitted to the Program Committee; the motion was seconded by Commissioner Meyer and unanimously approved.

Commissioner Freebairn-Smith commented that he would like the Street Artists Program "to elevate the quality of work above what we're seeing here."

*

Returning to Item III, Commissioner Rogers asked to hear from Special Legal Assistant Adine Varah of the City Attorney's office.

Ms. Varah stated that her office had not yet issued a formal written memorandum on the issue so that more testimony, from today's hearing, could be received and considered. At this point in time, she stated, her office stood behind its position on self-published books and felt that it was a correct analysis of the law. Relative to that position, her office will take a close look at the text of the street artist ordinance and other materials which have been submitted to verify the original intent in order to clarify for the Art Commission to what extent its Program is able to permit certification of works that involved third-party reproduction.

Ms. Varah went on to say that the City Attorney's office felt that the Commission's past interpretation and regulations regarding photographs were consistent with the intent and practice of the law, and her office found no violation of that. Her office will be providing clarification.

In response to a question from Commission Meyer, Ms. Varah clarified that her office had concluded that the certification of self-published books was consistent with the ordinance, that literature fell within the definition of

art and craft, and that the Commission, in the same way it regulated photographs, could engender regulations pertinent to limiting editions of third-party reproductions.

Street Artist Bill Clark asked the Commissioners if Ms. Varah was saying that the Art Commission will be allowed to let items not made by the street artist into the Program.

Ms. Varah told the Commissioners that her office will look again at the ordinance's fundamental definition of "handcrafted item: An item predominantly created or significantly altered in form by the street artist." It will be important for the Commission to have a clear outline of the extent to which third-party reproductions are consistent with the ordinance.

Commissioner Freebairn-Smith asked Ms. Varah the following: If a permissive reading of the law will be the recommendation of the City Attorney, but the charge to the Art Commission "is always to try to elevate the standards of art in the city," would it contradict anything in the law if the Commission exceeded the definition of handcrafted item and tightened standards? He felt the Clarks had raised an essential fundamental issue about quality; however, he expressed, the last thing he wanted to do was to exclude "people who are moving seriously into better art production ... through this Program."

Ms. Varah responded that an extremely important component of the Program is its screening process which is "a safeguard in the Program" and there was discretion in the screening that could be exercised.

Commissioner Stermer stated that his understanding of the foregoing discussion was that it had "nothing to do with quality of art." Reproduction was the sole issue here. Regardless of the testimony the Committee had received on the need for quality art, there was a compelling issue "of third-party art ... with certain restrictions" pertaining to whether "it can be demonstrated ... that it is made by the person." He sensed that there may be a need to change the wording or enlarge the wording of the definition of handcrafted item, because he felt that an artist who works with a commercial technician to reproduce the artist's painting is, in essence, "creating that product even as it goes through the machine."

Commissioner Stermer went on to say that, until recently,

artists have been "punished by the lack of technology in the sense that they had to get" poor photocopies and handcolor each one which probably resulted in a reduced quantity of art. He reiterated that he saw the basic issue as "the means of reproduction and whether or not the artist has manipulated the means of reproduction as well as the means of the original creation." He concluded that the Clarks' issue was a "reasonable" issue: "this is not just art; this is handmade art."

Commissioner Freebairn-Smith responded that he shared many of the points made by Commissioner Stermer; but if there was a mechanism for improving the quality of the Program, he wanted to remain interested in that. He wanted to be assured that once the present matter has been defined, the Commission will not have created any obstructions to elevating the quality of the work in the Program.

Commissioner Meyer stated that he was convinced that the definition of "handmade" was "way too narrow" and there was a need to address the existence of photographers and persons who make drawings and prints or writings, all of which are susceptible to reproduction through a machine. These people, he said, are an important and necessary part of the Program and the agenda of the Art Commission. He surmised that the City Attorney had already decided that such works fall within a broad interpretation of the concept of "handmade"; he wished to use that decision to allow the Commission to develop regulations that acknowledge it.

The Commissioner went on to say that a balance should be made "between 'crafts' and the image-makers": "the crafts do reproduce a smaller number, generally, of items ... it takes a little longer generally to reproduce the concept, and so the numbers that they produce and can sell are smaller ... than the numbers that can be reproduced and sold by" the photographic or photocopying processes. It was this imbalance that was causing the friction among the artists, and it could possibly be corrected by a numbering or limitation system.

Commissioner Stermer ascertained from Street Artist Edward Steneck that this issue was widely disseminated among the street artists. The Commissioner asked whether there was a fair representation of both sides at today's hearing. Mr. Steneck responded that he did not see anyone except the Clarks who were representing the view opposed to his view, and that this was "a fair representation" of the

Program.

Street Artist Bill Clark told the Commissioners that the people he represented "are actually in their workshops right now producing their work."

Commissioner Stermer stated that consideration must be given to the artists' desires in this matter; it is their living, and the Commissioners did not have the right to tell them how to make a living but did need to know how the artists could best make a living within the guidelines.

Commissioner Meyer stated that he felt that the Commission should allow a photocopied print so long as the artist approves the balance of colors as it comes out of the machine, thus exercising the choice to not pay for it unless it is acceptable to the artist's standards. The same decision by photographers to accept or reject a print of their image as it comes out of the lab is, he said, "the handmade stamp ... that the artist is putting" on the item.

Mr. Clark asked to address this; Commissioner Rogers stated the hearing was closed to public testimony; both Clarks left the meeting.

Commissioner Freebairn-Smith asked Ms. Varah to clarify, if any, legal distinctions between the various methods of reproduction - for example, the poet who reproduces his/her poems on paper; the musician who sells a tape recording of his/her performance; and the artist who sells his/her photocopied artwork - when Ms. Varah's office issues its opinion.

Commissioner Stermer stated that the Clarks had made a very good point: the word "handmade" was mentioned twice in the Voters Handbook. While technology has changed the way artists work, "this" (the statements expressed in the Voters Handbook) "is still on the books" and it was not satisfying the needs of today's visual artists on the street.

Program Director Lazar asked that the City Attorney and the Commissioners consider that if the City Attorney's determination is a broader view of what constitutes hand-craftsmanship and re-confirms the allowance of third-party reproductions, the door could open for a review of the the Program's criteria for its other arts and crafts - notably, criteria dealing with cast jewelry. In recent

times, the Commission upheld its Advisory Committee's recommendation to disapprove an applicant who wished to job out the multiple casting of the applicant's pendants; the Commission did this based on its criteria that cast-jewelry makers must make the original and mold and do the casting themselves. It would not be fair to allow a photographer or a printmaker to sell multiple copies they did not make of their original image and, at the same time, to prohibit a cast-jewelry maker from jobbing out his/her molded designs.

Commissioner Meyer responded that this underscored his view that limited editions must be required.

Commissioner Rogers responded that at the time of enactment of the present ordinance, printmakers wishing to sell multiple copies had access only to very expensive machines; with the improvement of technology, printmakers have more affordable access to the means of reproduction of their work. Casters do not have access to a machine which could yield multiple copies of their original.

Mr. Lazar responded that they nevertheless have access to commercial companies with whom they could contract to produce their items. Off and on through the years the Program Director has received complaints from jewelers that other "jewelers" in the Program were not making their own items but were selling store-bought jewelry. (Some of these cases, with production of evidence, have resulted in hearings and suspensions of certificate.) He suggested that consideration be given to limited editions as a possible way to achieve equitability.

Commissioner Stermer stated numerical restrictions were not fair to either the photographer or the buyer; the photographers could take thousands of pictures to achieve the one which is a success. In addition, numbering would be impossible to police.

Commissioner Rogers stated that he would be inclined to expand the "handcraft" definition, and that he was persuaded by having read Mayor Alioto's words at the time the Program was created that the Program "'will be limited to artists selling their own work'"; to the Commissioner, that meant a photographer can take a picture - his own work - and get it copied and sell the copies. Commissioner Rogers added that, with the current state of technology "it's a wonderful opportunity to bring these things to people and

sell them on the street at reasonable prices.... Artists win, buyers win, the city wins ... By limiting it, we all start losing."

Commissioner Rogers went on to say that what he has learned from three years of being on the Program Committee is that policies have matured over the years, generally for good reasons. When policies come up for review, the Committee should lean to the side of conservatism and the status quo because there are good reasons related to people making their living. He himself was generally disinclined to change what has occurred in the Program unless there was a groundswell of support from the artists themselves. In the present case, the Program had a workable system which he did not wish to see changed.

With regard to the numbering system, Commissioner Rogers stated that the ease with which prints can be reproduced and the opportunity for fraud render pointless the limiting of editions.

Commissioners Rogers and Meyer expressed interest in considering removal of the criteria for limited editions consistent for all the arts and crafts. Commissioner Meyer stated that, while he had been a supporter of having numbering systems, he was now "more persuaded by the free market approach ... let supply and demand make the final determination."

Commissioner Rogers asked that next month's meeting hear the forthcoming City Attorney opinion and also have a discussion on considering the removal of limited editions.

Commissioner Freebairn-Smith stressed the need for quality art and stated that the Art Commission was not in existence "to simply effect a free market program of anything that sells." He did not feel that that was the purpose of the street artist ordinance; it was passed because "San Franciscans as voters - as an entire community - said 'Let's not have our visitors, who are flying in here from Europe or from Asia, assaulted in the streets with low-quality products that denigrate the quality of life here and the quality of the visitor experience.'" The Commissioner added that he felt the Commission's responsibility was to invent mechanisms that would allow judgments to be made about the quality of the products; while this may not be so stated in the ordinance, he felt that it should be incorporated in the applicant-screening process.

Director of Cultural Affairs Newirth commented that, while he felt the Commissioner's statements were a valid viewpoint, he himself perceived one of the Art Commission's strongest charges to be not so much that of determining quality as it is encouraging the proliferation of art activity - the availability of art - throughout the city.

Commissioner Rogers acknowledged that the street artists are "on the very front lines of" entrepreneurship; he felt that the artists' chief interest was whether or not their product sells.

Commissioner Freebairn-Smith stated that America, in its cultural achievement, "will not be remembered as a culture for just being able to sell things."

Commissioner Meyer stated that he felt both the desire for quality art and the issue of how artists may be allowed to reproduce their works could be melded, that the development of quality standards could be encouraged. Limiting the means of how arts and crafts can be reproduced would not necessarily ensure quality.

Commissioner Stermer saw the Program as "democracy in action, a democracy of the pocketbook: people who don't sell just don't stay."

Program Director Lazar stated that, at the last hearing, printmakers had testified that, ironically, thanks to the new technology, there was more quality - affordable quality of visual expression on the street. The Commissioners concurred.

Commissioner Meyer summarized two points: (1) the Commissioners had reached a concensus to support a broader definition of the concept of "handcraft"; and (2) there was a consensus to consider removing the requirement of limitations on editions, an issue to be heard at the next meeting.

Commissioner Rogers adjourned the meeting at 4:53 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

SF
A70.75
#2
5/13/98

SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, May 13, 1998
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
APR 28 1998
SAN FRANCISCO
PUBLIC LIBRARY

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING ON CITY ATTORNEY CLARIFICATION ON STREET ARTIST CERTIFICATION OF SELF-PUBLISHED BOOKS; QUESTION ON ALLOWING THE EMPLOYMENT OF A THIRD PARTY TO REPRODUCE AN ITEM CREATED BY A STREET ARTIST** (hearing continued from 4/8/98)

II **HEARING TO CONSIDER DELETION OF REQUIREMENT FOR LIMITED EDITIONS FROM CRITERIA FOR "PRINTMAKING", "PHOTOGRAPHY", "COMPUTER-GENERATED & 'NEW TECHNOLOGY' ART"**

III **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTIST PROGRAM**

IV **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

V **ADJOURNMENT**

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Symphony Concerts
Public Art

Street Artists Licenses
Suite 70
415.252.2581

Commission Gallery
1 Van Ness Avenue
415.554.6080

City and County of San Francisco

25 Van Ness Ave. Suite 240, San Francisco, CA. 94102 tel. 415.252.2590 fax 415.252.2595

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market, one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554- 6083.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

SAN FRANCISCO ART COMMISSION

PROGRAMS
IVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
TURAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

REET ARTISTS LICENSES
SUITE 70
415.252.2581

OMMISSION GALLERY
VAN NESS AVENUE
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

May 13, 1998
Art Commission Conference Room
Suite 70
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
JUN 01 1998
SAN FRANCISCO
PUBLIC LIBRARY

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, William Meyer, Dugald Stermer, William Villa

Commissioners absent: None

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, called the meeting to order at 3:10 p.m.

I **HEARING ON CITY ATTORNEY CLARIFICATION ON STREET ARTIST CERTIFICATION OF SELF-PUBLISHED BOOKS; QUESTION ON ALLOWING THE EMPLOYMENT OF A THIRD PARTY TO REPRODUCE AN ITEM CREATED BY A STREET ARTIST** (hearing continued from April 8, 1998)

The Commissioners acknowledged receiving the awaited clarification from the City Attorney's office: a May 8, 1998 letter regarding "Street Artist Certification of Third Party Reproductions." The Program Director had also sent copies of the letter to all street artists who had spoken on the issue at the previous two Program Committee meetings.

Ms. Adine Varah, Special Legal Assistant of the City Attorney's office and primary researcher and co-author of the letter, recapped the question, summarized her office's conclusion and offered to respond to further questions on the matter. In light of a street artist's inquiry, she said, the Program Committee had asked the following: "Are the Arts Commission's screening criteria, which permit the certification of certain art and craft items that have been reproduced in limited editions by third parties, inconsistent with the Street Artists Ordinance?" The City Attorney's office concluded that the screening criteria are not inconsistent with the ordinance; the Art Commission is authorized to issue screening criteria under the ordinance; the criteria reflect a reasonable, long-standing, and consistent interpretation of the ordinance; furthermore, the criteria were found to be not arbitrary, capricious, nor without rational or reasonable basis; as currently drafted, the criteria

CITY AND COUNTY OF
SAN FRANCISCO

serve to ensure that certified works qualify as handcrafted items under the ordinance which are items that are predominantly created or significantly altered in form by the artist; as a result, a court would very likely defer to the Commission's committee certification of certain art and craft items that have been reproduced in limited editions by third parties.

Ms. Varah went on to say that the opinion went into detail about the plain text of the ordinance and the judicial deference given to administrative agency interpretation of the ordinance, and the standard judicial review for administrative agency regulations such as the screening criteria.

Commissioner Meyer questioned whether the screening criteria necessarily have to include limits on the items produced by third parties. Ms. Varah responded that the City Attorney's opinion stated that it was one method, albeit not the only method, of ensuring that a work is predominantly created or significantly altered by the artist and that its mass-produced aspect is secondary to its creative component.

Commissioner Rogers stated that, in reference to the opinion's assertion of judicial deference given to administrative agency interpretation, he as Commissioner had acquired "great respect" for "the status quo" because "things were the way they were for specific reasons" and represented issues directly related to the artists' livelihood; consequently, he had become reluctant to alter the status quo in a major way and this had become his guiding principle in considering policy issues. He concluded that the first two lines of the "judicial deference" paragraph (the letter's page 6, paragraph 1) paralleled this principle: "... The law is clear that 'long-standing and consistent administrative construction of a statute by those charged with its administration, particularly where interested parties have acquiesced in the interpretation, is entitled to <u>great weight</u> and should not be disturbed unless clearly erroneous.'..."

The Commissioner went on to say that, nevertheless, he sensed the Commission might be drifting slightly towards a double standard in that artists of some types of items were being allowed to have third parties participate in the production of the items while artists of other types of items were not so allowed. But, in reading the opinion, the Commissioner felt there was a basis for this situation and it could possibly be continued as a matter of policy.

Commissioner Rogers also stated that what was not settled in his mind was the issue of limiting numbers of reproductions. His understanding of the opinion was that it would be adviseable for the Commission to leave its current standards of limited editions in place, that to remove them could leave the Commission legally vulnerable.

Ms. Varah responded that by maintaining the status quo, the same principle of "long-standing and consistent administrative construction of a statute" would apply and the Commission would receive the same deference from a court. If numerical limitations were eliminated, the same doctrine may not apply to the Commission, although it did not necessarily mean that a court would not uphold the Commission's action due to the other reasons set forth in the opinion. Ms. Varah stated that the opinion stressed that the Commission's major task was to ensure that items are predominantly created or significantly altered by the artist; to the extent that the Commission forms a justification or a reasonable basis for making a modification of the criteria in order to accomplish the goal of ascertaining predominant creation or significant alteration by the artist, the Commission's action would most likely be considered as consistent with the ordinance and be upheld.

Commissioner Stermer stated that he did not feel a photographer who shoots a classic picture which wins the public's support should be punished by preventing the photographer from selling an unlimited number of the print.

Program Director Lazar stated that he understood that the opinion rested to an extent on the Commission's history of imposing limits on commercially reproduced prints, actions which were initiated by the Commission in deference to those photographers and printmakers in the Program who did their own photofinishing and printmaking entirely (who, because of this, were allowed to sell unlimited editions of their works). Mr. Lazar further understood that the City Attorney had acknowledged that the limited editions criteria were to ensure against a product becoming so mass produced as to overtake its predominant creation or significant alteration aspect of the artist's contribution to the product.

Ms. Varah clarified that that point was made in her office's previous opinion on the certification of cassette tapes, that the proportion of the original state of work might become confused in the work's mass produced aspect.

Ms. Varah stated that in maintaining the status quo, the interpretion given by her office would most likely be upheld; whereas in changing the status quo, different standards may apply that may be more or less likely to be upheld.

Commissioner Rogers stated that he would not be bothered by the allowance of a photographer to sell as many commercially reproduced photo-prints of his image as he wished; but the Commissioner would be bothered if the photographer attempted to sell an unlimited number of "xerography" prints of his image, despite the fact that in both cases the photographer would be going to a third party for the production of prints. There was a qualitative distinction between the two products.

Commissioner Stermer stated that in the "fine art world" a scribed, drawn, acid-bathed, or lithographed print is usually numbered and limited, and the plate is destroyed. The artist signs several "artist's proofs" and does the edition run; the buyer knows what the run is and trusts that there will be no more. However, he said, this does not apply to photography: the photographer usually signs the print, meaning that the photographer not only took the picture but had something to do with the reproduction of the picture; but the limits on the number of prints the photographer can make from the negative are what the photographer decides and they do not alter significantly the value of the photograph - and it doesn't matter, because the negative stays consistent. So the two arts are treated very differently, handed down through tradition, in the "fine arts world". The Art Commission could consider this guideline which has withstood the test of time in the "fine arts world" to guard against a product's mass-produced aspect submerging its initial, predominant creative aspect.

Commissioner Rogers stated that he felt the concept of limiting copies was basically unenforceable because there was no inherent self-policing structure. He would prefer to eliminate the limitations, but this could leave the Commission legally vulnerable as well as possibly jeopardizing the verification of predominantly created products by the artist - that is, "watering down the intent of the ordinance."

Commissioner Meyer stated that favored the "free market system" with respect to street artist wares. He also was pleased that the Street Artists Program was able to offer some inexpensive items for buyers who do not have much

money, the items still being created by artists. Even a postcard created by an artist should be allowed to proliferate so long as someone is willing to buy it. The marketplace itself acts as an agent to eventually limit the postcard. The Commissioner felt that the limited edition criteria were unnecessary restrictions. By not having limits, the Commission could allow technology in its Program to continue to change - xerography prints, for example would improve, and other technology might come along to enable artists to reproduce their art.

Commissioner Rogers asked Ms. Varah whether the Commission has the authority to set a policy that would not allow jewelry to be reproduced by third parties but would allow photographs to be reproduced by third parties. Ms. Varah responded that it could so long as there was a rational basis for it.

Program Director Lazar asked whether the "rational basis" could be in light of the finished product being representative of a predominant creation by the artist. For example, the Commission could consider that the predominant creation of a photograph was the artist's selection and photographing of the image and not the commercial laboratory's printing of the negative - so long as the print or reproduction did not alter what the photographer saw and captured through the lens, and that the photographer could take the negative to any lab and receive, basically, the same print. However, in the case of jewelry, if an artist jobbed out a mold of his created ring to a third party, couldn't the Commission argue that the finished product was a replica not in keeping with the original predominant creation? The Program Director expressed anxiety over the possibility of a case or several cases of violation before the Program Committee in which the alleged violators would argue to be allowed to sell "rolled" or "clicker" belts or other mass-produced items manufactured by commercial companies from designs submitted by artists; he felt this would be deleterious for the other street artists as well as for the public.

The Commissioners concurred.

Ms. Varah stated that her office felt the plain text of the ordinance was not ambiguous, that it was clear the Art Commission has the authority to issue screening criteria; that the term "handcrafted" does not necessarily mean that a work has to be exclusively created by the artist; and that a necessary outgrowth of the stated screening procedure

is the Commission's right to develop screening criteria which, if not arbitrary, capricious, unreasonable, or irrational, would most likely be upheld by a court.

Commissioner Rogers pointed to what he felt the public would expect - for example, a buyer would expect that the ring he or she buys was entirely handmade by the artist selling it, whereas a buyer would not be bothered by the fact that a color print of an artist's painting was run off by someone other than the artist. The Commissioner concluded that different criteria could be applied to different arts and crafts based on the standard of the public's reasonable expectations of the arts and crafts.

Commissioner Stermer stated that it would then follow that, based on reasonable expectations, the public would expect that a black and white photograph was developed and printed by the photographer whereas a color photograph may not necessarily have been developed and printed by the photographer. In esseence, there arises "a double standard within a double standard" most of which has to do with technology. He favored the Commission's long-standing practice of applying different criteria to the various arts and crafts.

The Commissioner went on to say that he sympathized with the issue that Street Artists Bill and Bob Clark raised, and that the issue should be re-examined every two years as technology changes and as the marketplace changes. Fortunately, there was no fixed standard or criterion for all the arts and crafts, he said; and neither was there one in the outside art world.

II HEARING TO CONSIDER DELETION OF REQUIREMENT FOR LIMITED EDITIONS FROM CRITERIA FOR "PRINTMAKING", "PHOTOGRAPHY", "COMPUTER-GENERATED & 'NEW TECHNOLOGY' ART"

Discussion on the previous item flowed into discussion on Item II. Commissioner Rogers called for testimony from the audience.

Mr. Mathew Porkola, Chair, Advisory Committee of Street Artists and Craftsmen Examiners, joined the Commissioners in their thanks to Ms. Varah for her written clarification. Referring to it, Mr. Porkola stated that it was clear that the use of limited editions was the best way of balancing the concerns of artists like the Clark brothers, as the Street Artists Program has "historically been a handcrafted program." While the enforcement of limited editions was

a problem, limited editions as a matter of policy was beneficial to encourage artists to experiment and be more creative in the production of their work. He urged that the screening criteria, adopted in 1977, be updated - specifically, to maintain compliance with the California statute entitled "Sale of Fine Prints" (mentioned in the current City Attorney opinion) which requires art dealers to provide, upon a purchaser's request, a "certificate of authenticity" for "fine prints" or "prints" produced in multiples. Mr. Porkola stated that possible misunderstandings on the street could be avoided if the buyer is informed that he or she is buying a laser print, ink-jet print, or litho - determining factors of the longevity of the print.

Street Artist Sharon MacDougall stated that artists already inform their customers of the quality of the print. She added that if the artist numbers the prints, it implies that the prints will increase in value.

Commissioner Stermer stated that, without enforcement, the numbering of prints would be "an open invitation to fraud." Instead of numbering, the Commissioner favored the idea of artists offering full disclosure of the reproduction method of the print.

Street Artist Mike Granatt proposed that the City Attorney's office develop a standardized certificate of authenticity for printmakers and others to file with the Art Commission.

Street Artist Barbro Haglund stated that, as a photographer, she makes various sizes of prints from the same image; she questioned whether she would be required to set a limit on each size of the same image.

In response to questions from the Commissioners, Program Director Lazar stated that the current criteria for limited editions not only varies among several crafts but varies within the one craft of photography.

Mr. Porkola stated that the Advisory Committee, in drafting the criteria for "Computer-Generated & 'New Technology' Art," had wanted to standardize the limited edition criterion in keeping with the limited editions of the other crafts, but the Program Committee decided to restrict it further (50 copies per edition) in order to encourage people who do laser-copy work to frequently alter their images and produce new work.

Commissioner Meyer proposed that the Advisory Committee be asked to make an initial categorization of all the arts and crafts in the Program and make recommendations of standards for each category for submittal to the Program Committee as a basis for development of policy. Commissioner Stermer expressed support of the proposal.

Director of Cultural Affairs Newirth expressed support of this as a means of taking a fresh look at the twenty-one-year-old criteria for possible revision.

Street Artist Barbro Haglund urged the Commissioners to delete limited editions.

Commissioner Rogers requested Program Director Lazar to develop a list in a reasonable grouping of the types of art being sold by the street artists; there would follow discussions between the Program Committee and the Advisory Committee. The Advisory Committee should begin to develop recommended criteria for each category as to whether an art or craft may be reproduced by a third party and whether it should be in a limited edition - so that a clearer codification may be applied by the Advisory Committee in its screenings. A special meeting of the Advisory Committee could be held to draft such recommendations.

Commissioner Freebairn-Smith asked whether it was feasible for the Program to monitor limited editions. Mr. Porkola replied that it was not very enforceable; he reiterated that the primary purpose of limited editions was to encourage artists to refine their craft.

Street Artist Edward Steneck stated that, unless the Art Commission staff were given the authority to destroy an artist's negative or original painting after its limited edition prints were sold, numbering prints "is just perpetrating a fraud on the public." Limiting the edition of one's prints should be only on a voluntary basis, generally for the purpose of enhancing the value of the prints. He questioned the reasoning behind "penalizing" someone who is successful in continuing to sell one image over a period of years: Why should a photographer have to stop selling his best-selling photo of the Blue Angels flying over the Balclutha when the Blue Angels will no longer fly over that area and the Balclutha has been moved?

Mr. Steneck went on to say that the artists' lottery system limits the artists' opportunities in getting very good spaces

which, in turn, limits the volume of prints an artist can sell. Because of the lottery system and competition, "nobody out there is going to sell 10,000 of anything." Mr. Steneck emphasized that he enjoyed the capitalist system he was under and did not feel that anyone who has reproductions made of his original art work should be limited in the number of prints he can sell.

Commissioner Rogers asked that a list of questions submitted by Bill and Bob Clark, who were not present, be entered into the Program's records and also submitted to Ms. Varah for possible City Attorney response.

III REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

Program Director Lazar reported that he had submitted draft legislation to Supervisor Teng to appropriate to the Street Artists Program revenue derived from fines collected for violations of the street artist ordinance, the revenue to be used to reimburse the Program for its costs of hiring off-duty Police officers to enforce the ordinance.

Commissioner Rogers moved to express the Commission's appreciation to Deputy City Attorney Miriam Stombler and Special Legal Assistant Adine Varah for their work; the motion was seconded by Commissioner Stermer and unanimously approved.

The meeting adjourned at 4:30 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Director
Street Artists Program

SAN FRANCISCO ART COMMISSION

PROGRAMS
IVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
'URAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

REET ARTISTS LICENSES
SUITE 70
415.252.2581

)MMISSION GALLERY
VAN NESS AVENUE
415.554.6080

SF
A70.75
*2
6/10/98
Canceled

DOCUMENTS DEPT.
JUN 03 1998
SAN FRANCISCO
PUBLIC LIBRARY

NOTICE

The meeting of the STREET ARTISTS PROGRAM COMMITTEE scheduled for **Wednesday, June 10, 1998** has been **cancelled.**

The next meeting of the Street Artists Program Committee is scheduled for **Wednesday, July 8, 1998, 3:00 p.m.** in the Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

May 21, 1998

CITY AND COUNTY OF
SAN FRANCISCO

25 VAN NESS AVE. SUITE 240, SAN FRANCISCO, CA. 94102 TEL. 415.252.2590 FAX 415.252.2595

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554- 6083.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

S F
A C
SAN FRANCISCO ART COMMISSION

SF
A70.75
#2
7/8/98
Canceled

DOCUMENTS DEPT.
JUL. 06 1998
SAN FRANCISCO
PUBLIC LIBRARY

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts
& Education
tural Equity Grants
Symphony Concerts
Public Art

reet Artists Licenses
Suite 70
415.252.2581

ommission Gallery
l Van Ness Avenue
415.554.6080

NOTICE

The meeting of the STREET ARTISTS PROGRAM COMMITTEE scheduled for **Wednesday, July 8, 1998** has been **cancelled.**

The next meeting of the Street Artists Program Committee is scheduled for **Wednesday, August 12, 1998, 3:00 p. m.** in Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

July 2, 1998

City and County of
San Francisco

SF
A70.75
#2
8/12/98

SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, August 12, 1998
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
JUL 23 1998
SAN FRANCISCO
PUBLIC LIBRARY

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE ISSUANCE OF CERTIFICATE OR RENEWAL OF CERTIFICATE**

Alfred Gamarra - Certificate # 1547. Alleged violation: Displaying items not of the artist's own creation (commercially manufactured cast pendants, silver chains, cast rings, nickel money clips.

II **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSED AMENDMENTS TO AGREEMENT BETWEEN ART COMMISSION AND FILM AND VIDEO ARTS COMMISSION REGARDING USE OF STREET ARTIST SPACES BY FILM COMPANIES**

III **HEARING AND POSSIBLE MOTION TO ADOPT A LOTTERY RULE TO ALLOW A LOTTERY COMMITTEE MEMBER WHO RUNS A DOWNTOWN LOTTERY ON SATURDAY TO CHOOSE A SPACE AT THE WHARF SIGN-UP AFTER THE MEMBER WHO RUNS THE WHARF LOTTERY SIGNS UP AND BEFORE THE HELPERS SIGN UP**

IV **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

V **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VI **ADJOURNMENT**

S|F
A|C
PROGRAMS
VIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
URAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART
EET ARTISTS LICENSES
SUITE 70
415.252.2581
MMISSION GALLERY
VAN NESS AVENUE
415.554.6080
ITY AND COUNTY OF
SAN FRANCISCO

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

S F
A C

SAN FRANCISCO ART COMMISSION

PROGRAMS
IVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
URAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

EET ARTISTS LICENSES
SUITE 70
415.252.2581

MMISSION GALLERY
VAN NESS AVENUE
415.554.6080

DOCUMENTS DEPT.
AUG 24 1998
SAN FRANCISCO
PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

August 12, 1998
Art Commission Conference Room
Suite 70
25 Van Ness Avenue
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Dugald Stermer, William Villa

Commissioners absent: Rod Freebairn-Smith, William Meyer

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy
Deputy City Attorney Adine Varah

Commissioner Rogers, Chair, called the meeting to order at 3:05 p.m. and welcomed Commissioner Denise Roth as a non-voting observer of the meeting.

I **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE ISSUANCE OF CERTIFICATE OR RENEWAL OF CERTIFICATE**

Alfred Gamarra - Certificate # 1547. Alleged violation: Displaying items not of the artist's own creation (commercially manufactured cast pendants, silver chains, cast rings, nickel money clips).

Program Director Lazar explained that last December the Advisory Committee had been monitoring the wares being sold by the street artists in the Downtown area and had stated in writing on December 21, 1997 that "Mr. Gamarra is also offering the following non-artist made items for sale: silver charms in the shapes of: Scorpions, Eagles, Cable Cars and Motorcycles." Mr. Lazar asked Advisory Committee member Susan Tibbon, who had written the note, to come forward and identify jewelry pieces he was submitting as evidence to the Commissioners.

In introducing her, Mr. Lazar stated that Ms. Tibbon was appointed by the Mayor as an expert in the arts and crafts processes to sit as a member of the Advisory Committee of Street Artists and Craftsmen Examiners in order to verify whether an art or craft is the creation of an applicant for a street artist certificate and to advise the Commission on whether the applicant should be certified. Ms. Tibbon was also a teacher of arts and crafts and a well-known

CITY AND COUNTY OF
SAN FRANCISCO

artist.

Mr. Lazar produced two cast pendants, one of a scorpion and the other of an eagle on a motorcycle, and asked Ms. Tibbon if these were items she had seen on Mr. Gamarra's table on December 21st. Ms. Tibbon responded that, in viewing the items on Mr. Gamarra's table, she and Committee member Mathew Porkola had been concerned that many of the items were imprinted with manufacturer's marks rather than an artist's signature or stamp. In examining now the two pendants, Ms. Tibbon stated that she observed that on the back of the eagle/motorcycle pendant was an imprinted date as well as the standard copyright "c within a circle" mark. She went on to say that while the eagle and the motorcycle were familiar, she could not recall whether they had been separate items on Mr. Gamarra's table or joined as they were now; however, the scorpion pendant was the same piece she had seen on his table. In examining the scorpion pendant, she told the Commissioners that she observed the "c within a circle" mark, there was no artist's stamp on it, and it appeared to be a manufactured piece. Both the scorpion and the eagle/motorcycle pendants were cast pieces, she said. In further examination, Ms. Tibbon observed that the eagle was imprinted with a date "'78" and the motorcycle with "'83."

Ms. Tibbon further stated that she had seen small cable car pendants on Mr. Gamarra's table.

Mr. Lazar informed the Commissioners that the scorpion and the eagle/motorcycle pendants which Ms. Tibbon examined were obtained from R C International, Suite 1040, The Gift Center, on Brannan Street, San Francisco.

The Commissioners examined the two pendants.

Commissioner Rogers offered Mr. Gamarra opportunity to cross-examine Ms. Tibbon's testimony. Mr. Gamarra chose not to do so and instead stated that the two pendants were not on his table and asked to see proof of photographs.

Mr. Lazar submitted the photos he had taken of Mr. Gamarra's display at Hallidie Plaza on May 22, 1998. He also referred the Commissioners to the Art Commission's criterion for "CAST JEWELRY" which had been published since 1977: "Casting from commercial wax patterns is not acceptable; the craftsperson must make original molds from original work." The Street Artists Program has always interpreted this to mean

that the artist sculpts or molds an original object in wax or other media, then makes a mold from it, and does his or her own casting. Mr. Lazar maintained that the cast scorpion and eagle/motorcycle pendants represented very skillful and intricate sculpting, and that he wanted to see whether Mr. Gamarra could sculpt the prototypes and do so in the actual size of the cast pieces.

Referring to his photos of May 22nd, Mr. Lazar identified the scorpion pendant as well as heart-shaped pendants, silver chains, a gold Egyptian-style pendant, a sculpted bicycle pendant, an abalone-inlaid Star of David and an inlaid "potleaf" pendant, several nickel money clips with mounted coins, silver-bezzeled amber pendants and rings, and other items. The Program Director, in referring to the photo showing these items, stated that he could not find any object in the photograph that was not commercially mass produced.

In pointing to the "potleaf" pendant in the same photo, Mr. Lazar submitted a copy of page 41 of "Jewelry Catalogue #50" published by Plum Island Silver Company, West Newbury, MA, which showed a photo of what he maintained was the same pendant: it was listed as "CH-525 Antiqued Pot Leaf." On the same page the Commissioners viewed a photo of an eagle/motorcycle pendant listed as "CH-949 Eagle On Cycle" which Mr. Lazar maintained was identical to the actual pendant he had submitted.

Referring to the photo he took of Mr. Gamarra's displayed nickel money clips, Mr. Lazar requested the Commissioners to ask Mr. Gamarra if he made them.

Referring to the photo containing the heart-shaped multi-colored pendant earrings and the silver-bezzeled amber rings and pendants, Mr. Lazar produced actual items to match the ones in the photo. The Commissioners examined these and noted the similarities. The items, Mr. Lazar stated, were obtained from World Imports, 101 Utah Street, San Francisco.

Commissioner Stermer, in viewing the photos of Mr. Gamarra's objects, questioned whether linked coins (shown in one of the photos) would have been approved by the Commission. Mr. Lazar doubted that it would but said it would be up to the Advisory Committee to determine whether the artist had significantly altered the form of the components (the coins). Commissioner Stermer asked him whether the Program had ever licensed a street artist who demonstrated making

such a variety of styles of jewelry as contained in the photos taken of Mr. Gamarra's display. Mr. Lazar responded in the negative, that while there had been a few artists who demonstrated they could make some of the styles, he had never seen one who could demonstrate such a myriad of styles as shown in the photos.

Mr. Gamarra produced receipts which showed, he said, where he bought his silver, brass, nickel, copper. Commissioner Rogers questioned him on the meaning of abbreviations of certain listed materials: Mr. Gamarra responded that "SS LOW DOME" meant sterling silver wire and ""SS SHEET 18g" meant sterling silver sheet, 18 guage. While many of the receipts were recent (spring and summer of 1998), Commissioner Rogers noted that one of the receipts - Rio Grande - was from 1988.

Mr. Gamarra stated that he came to the hearing to address the charge regarding the nickel money clips, the chains, the pendants, and the rings. In response to questions from Commissioner Stermer, he stated that he bought the eagle piece and the motorcycle piece separately, a mold is made, and a cast is made from the mold. Commissioner Rogers asked Mr. Gamarra if it was his own mold; Mr. Gamarra replied: "I buy my mold."

Commissioner Stermer asked Mr. Gamarra if he cast the pieces and put in all the copyright and other marks. Mr. Gamarra said that he did not, that the mold for the eagle "was made at the shop," and that he cast the eagle.

It was ascertained that Mr. Gamarra's not sculpting the original form - the eagle - and not creating his own mold were violations of the Commission's criterion for "cast jewelry." In addition, Commissioner Stermer pointed out that if the eagle and motorcycle pieces were copyrighted separately by their moldmakers, Mr. Gamarra could be in violation of the copyright law by putting the two copyrighted components together.

With respect to Mr. Gamarra's invoices of raw materials, the Program Director stated that he did not doubt that Mr. Gamarra made his own jewelry items from the materials - he was, in fact, certified to sell his own fabricated metal jewelry - but Mr. Gamarra had been observed selling <u>cast</u> jewelry items, a craft process for which he was not certified, and such items appeared to be not of his own creation.

Commissioner Stermer, in examining photos taken of the various Advisory Committee examinations of Mr. Gamarra's arts and crafts in prior years, commented that the jewelry craft for which Mr. Gamarra had received certification was of a high quality and could not see why Mr. Gamarra would want to risk losing his license by selling the cast items created and copyrighted by someone else.

Mr. Gamarra showed the Commissioners silver rings of soldered pendants, cut-out coins, the various components of a silver knuckle ring, and brass, nickel, and copper money clips. He stated that he cut the coins, soldered and welded them, making them into a pendant which was not cast. Commissioner Rogers responded that these items were not part of the issue; the issue was that Mr. Gamarra had been offering for sale cast items he had not created.

Mr. Gamarra proceeded to show metal money clips and stated that he was dismayed that they should be questioned by Mr. Lazar when he, Mr. Gamarra, had been making them for years.

In response to questions from Commissioner Stermer regarding a cast eagle on a ring, Mr. Gamarra said he found the eagle and put it on a ring. With regard to this, in response to questions from the Commissioners, the Program Director stated that while Mr. Gamarra was certified to cut shapes from coins and to solder them onto shanks, Mr. Gamarra's purchasing cast pendant items and soldering them onto shanks was questionable because the dominant, significant aspect of such rings was its cast component which was not created by Mr. Gamarra.

Mr. Gamarra maintained that such components were "findings" that he obtained from "The Showplace."

Mr. Gamarra showed the Committee lengths of silver bands for the making of rings.

Commissioner Stermer stated that the predominant aspect of the eagle ring was the eagle component which Mr. Gamarra had not made and that just by attaching it to a pre-made ring did not make it Mr. Gamarra's own creation.

While Mr. Gamarra showed the Commissioners shapes of a Star of David and a marijuana leaf cut from metal, the Program Director pointed out that these were relatively flat metal objects that were not the same Star of David and "Pot Leaf" pendants that appeared contoured and inlaid with abalone

in one of the photos taken of Mr. Gamarra's display. Commissioner Rogers corroborated this by saying to Mr. Gamarra that the Star of David and the money clips appearing in the photos were not the ones he was showing the Commissioners. The three Commissioners noted that the cut-out "Pot Leaf" or "weed plant" pendant shown to them by Mr. Gamarra was much thinner than the one in the photo which was, as Commissioner Villa put it, "embossed and raised."

In identifying the nickel money clips in the photos, Mr. Gamarra stated that he cut them and that he had witnesses who were present to testify on his behalf.

Street Artist Fernando Hechavarria said he worked with Mr. Gamarra in the same workshop and that he had seen him make all of his items. He went on to say that Mr. Gamarra taught him how to make his own items. Commissioner Rogers asked Mr. Hechavarria if Mr. Gamarra made everything that was shown in the photos of his display, to which Mr. Hechavarria replied "everything he made," and that he saw him do so. Commissioner Stermer showed Mr. Hechavarria some of the cast pendant objects and asked him if Mr. Gamarra had made them, and he replied that Mr. Gamarra had done so.

In response to questions from the Program Director, Mr. Hechavarria admitted that at one time his street artist certificate had been revoked by the Art Commission, that one of the reasons for the revocation had been his having sold items not of his own creation, and that when he petitioned the Commission for a new certificate, the Commission voted to give him one after having received reports of his continuing to sell items he had not made. Mr. Hechavarria stated that he was presently selling only items he made.

Mr. Gamarra stated that he was before the Program Committee because a certain artist who wanted to be the only one selling silver was pressuring the Program Director. Commissioner Rogers said this was not relevant and that his Committee was concerned about the products he was selling.

Street Artist Virginia Travers stated that she had known Mr. Gamarra for twenty-five years, that he was "an excellent craftsman", and that he should be allowed to sell his own work while being monitored closely by the Advisory Committee. She went on to say that there were items on Mr. Gamarra's table that "obviously manufactured by someone else"; while he incorporated them into his work, he did not "significantly

alter" these components.

Street Artist Merlin Willis stated that he had watched Mr. Gamarra make nickel money clips, had seen him bend the metal, position the coin on it, and solder the coin to it. He also said that Mr. Gamarra welded the eagle and the motorcycle together "to try to change the design." Mr. Willis did not feel this warranted a suspension of Mr. Gamarra's certificate; instead, he should receive a warning.

Street Artist James Toolate stated that he knew Mr. Gamarra for twenty-seven years, worked with him in the past, and observed him make nickel money clips. He said Mr. Gamarra should have "closer scrutiny." He added that Mr. Gamarra should be allowed to weld manufactured items to his own bracelets so long as "it significantly changed the structure."

In response to questions from the Program Director, Mr. Toolate admitted that the Art Commission revoked his street artist certificate "for selling items of another street artist" - items not of Mr. Toolate's own creation.

The Program Director stated that, with respect to the photos showing nickel money clips, on March 5, 1998 he telephoned the company known as Rio Grande and spoke with Ms. Donna Colley, a bookkeeper, who informed him that Mr. Gamarra had been doing business with Rio Grande since February, 1985, and, except for a few purchases of caboshons and stones, he had purchased money clips - his last order dated December 10, 1997 for a package of twenty 3/4" nickel clips and a package of six 1" nickel clips.

Commissioner Stermer stated that he felt the placement of a coin onto a commercially manufactured money clip did not constitute an original piece of art.

Commissioner Villa stated that some of the money clips in the photo looked like they were purchased, whereas some that Mr. Gamarra showed the Commissioners looked like they were handmade.

Commissioner Rogers noted that Mr. Gamarra was not certified for casting, whereas there was evidence that cast items appeared on his display.

Director of Cultural Affairs Newirth stated that, in cases similar to this one, the Program Committee had considered

suspension or revocation, but with the advent of the new procedures adopted by the Commission a year ago, the main issue was to consider renewing or not renewing the certificate. In addition, the Committee could possibly approve a renewal and impose a warning and/or suspension.

Commissioner Rogers stated that he viewed "an enormous variety of things" in the photos "that in no way has Mr. Gamarra convinced me that he has made." The Commissioner went on to say that some of the noted items had been cast and that Mr. Gamarra was not certified for casting. The violation, he said, warranted the Commission's standardized penalty of a two-month suspension of certificate.

The Commissioners noted that Mr. Gamarra's certificate was due to expire on September 30th.

Commissioner Stermer stated that while the items that Mr. Gamarra actually makes are "beautiful" and while he was "an accomplished silver/goldsmith", he did not cast items. Furthermore, the addition of a "motorcycle" component to an "eagle" component did not significantly alter either component to create a new piece; neither did placing a coin on a commercially made money clip do so. Agreeing with Commissioner Rogers, Commissioner Stermer noted that "the variety" of items on Mr. Gamarra's display took "a real suspension of" belief "to say" that he "made it all, because clearly those rings have just a manufactured look about them." To Mr. Gamarra, the Commissioner remarked: "Your best friends in the audience think you've got to be watched very carefully."

Commissioner Villa stated that he felt a suspension was in order.

Director of Cultural Affairs Newirth reminded the Commissioners of their option to impose a suspension prior to Mr. Gamarra's upcoming certificate expiration date which could also extend into its renewal.

Commissioner Stermer moved that Mr. Gamarra be found in violation of the street artist ordinance for selling cast items not of his own creation, that issuance of renewal of his certificate be approved, and that his certificate be suspended for a period of two months commencing October 1, 1998; the motion was seconded by Commissioner Villa.

In response to questions from Mr. Gamarra, the Commissioners

clarified that if Mr. Gamarra were to exceed the grace period in renewing his certificate - that is, if he were to let it expire on September 30th and renew it at a later date, he would have to pay the $20 application fee as well as the certificate fee and either request a screening of his wares or Commission approval without a screening.

The motion was unanimously approved.

Commissioner Rogers noted that the Committee had spent an hour and twenty-four minutes on the hearing.

II HEARING AND POSSIBLE MOTION TO APPROVE PROPOSED AMENDMENTS TO AGREEMENT BETWEEN ART COMMISSION AND FILM AND VIDEO ARTS COMMISSION REGARDING USE OF STREET ARTIST SPACES BY FILM COMPANIES

Program Director Lazar reported on a meeting held on July 16th between Film and Video Arts Commission Director Robin Eickman, Location Manager Peter Rich of Nash Bridges Productions, Street Artists Debra King and Virginia Travers, and Program Director Lazar. The meeting had been requested by Nash Bridges Productions to consider amending the 1996 agreement between the Art Commission and the Film and Video Arts Commission to provide for reduced rates of compensation for certain mitigating situations where the "adverse impact" on street artist spaces by a film company is minimized. Such situations would include the allowance of a street artist to continue selling in his or her space during filming; the cancellation for film use of spaces previously posted for such use; the parking of movie vehicles without encroachment onto or through a street artist space; encroaching while parking but no filming. In place of the current flat rate of $200 per space paid to the Art Commission for any situation (parking, filming or non-filming) of a movie company's adverse impact on a street artist space, compensation rates would vary from $200 to $125 to $100 to $90 to $50 depending on the situation and, in some cases, the location.

Street Artists Debra King and Virginia Travers stated that Nash Bridges Casting Director Peter Rich had offered significantly less compensation for some of the mitigating situations but had agreed to the proposed rates after much negotiation.

Street Artist Virginia Burris asked that the proposed compensation rates for spaces on Jefferson Street be the same

as for those on Beach Street.

The Commissioners ascertained that while Mr. Rich's company had been a steady compensator for street artist spaces it had used throughout the year, it was Nash Bridges Productions who appeared to be the sole film company taking the initiative to request amending the agreement.

Commissioner Rogers expressed concern that such amendments might seriously complicate the compensation issue and increase the Program Director's workload by, among other things, making him an arbitrator in film company-street artist disputes on rates of compensation. The Commissioner also expressed the view that movie companies should compensate artists for impacting their spaces by the parking of trucks because such vehicles receive permits for parking far longer than non-permitted trucks.

Commissioner Stermer expressed an inclination that street artists continue to be compensated at the present rate for all situations of adverse impact by film companies on their spaces. He observed that movie vehicles receive parking permits from a department - the Department of Parking and traffic - whose interests do not necessarily consider those of the Art Commission and the street artists.

Commissioner Roth stated that, if the amendments were to be adopted, the film companies who shoot approximately 75 to 80 commercials a year in San Francisco would find it burdensome to sift through a written agreement which would be increased in size from two pages to five pages.

Commissioner Rogers thanked Ms. King and Ms. Travers for their time and effort in negotiating the issue.

Commissioner Rogers asked that the matter be continued to the next Program Committee meeting and that Mr. Rich be requested to present his reasons for the proposed amendments.

III **HEARING AND POSSIBLE MOTION TO ADOPT A LOTTERY RULE TO ALLOW A LOTTERY COMMITTEE MEMBER WHO RUNS A DOWNTOWN LOTTERY ON SATURDAY TO CHOOSE A SPACE AT THE WHARF SIGN-UP AFTER THE MEMBER WHO RUNS THE WHARF LOTTERY SIGNS UP AND BEFORE THE HELPERS SIGN UP**

The Program Director reported that the procedure for a Lottery Committee member's choosing a space had been applied by tradition and had not been stated as a rule; secondly,

it was the tradition for a member to choose either a Downtown or a Wharf space only on days other than Saturday. Members of the Lottery Committee at a meeting held on July 2nd voted to propose a rule which would allow a Lottery member who runs a Downtown lottery on Saturday to choose a space at the Wharf sign-up after the member who runs the Wharf lottery signs up and before the helpers sign up.

Street Artist Lottery Committee members Virginia Burris and Brian Linwell supported the proposal, stating that Lottery Committee members who increased their lottery duties during certain peak selling seasons should be entitled to select a space in either the Downtown or Wharf areas. Mr. Linwell, a "funsketcher," also stated that it was problematic for Lottery members whose craft appeals exclusively to Wharf customers to find themselves restricted to choosing a Downtown space because of having to run a Downtown Lottery.

Commissioner Rogers expressed his view that the Lottery Committee should be properly compensated and that he favored giving its members a wider choice of spaces.

Commissioner Stermer expressed his view that the proposed rule would encourage more people to join the Lottery Committee and share in its arduous duties.

Street Artist Jimmy Sha asked that the proposal be amended to provide that a member who runs the Downtown Lottery on Saturday choose a Wharf space not only after the Wharf Lottery member chooses a space but also after the Wharf helpers choose their spaces.

Mr. Linwell opposed this by saying that it was contrary to what had been voted on by the Lottery Committee and that traditionally it has always been the Lottery member to choose a space before the helpers choose.

After discussion on possible ways of wording the rule, Commissioner Rogers asked that the item be continued to the next Program Committee meeting and that the Program Director submit at that time a succinct motion.

Commissioner Rogers moved that, until adoption of the proposed rule at the next Program Committee meeting, Lottery members may choose a space in either the Wharf area or the Downtown area on any day; the motion was seconded by Commissioner Stermer and unanimously approved.

IV REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

Program Director Lazar reported on the accomplishments of the Street Artists Program for 1997-98 which included the following major items:

- Celebrated Program's 25th anniversary with closure of Beach Street for a street fair celebration, the Program receiving a resolution of commendation from the Board of Supervisors, and the Program Director receiving a proclamation from the Mayor.

- Obtained, for the 16th consecutive year, Board of Supervisors approval of temporary selling spaces (59 of them) in the Downtown area, making for a total of 346 spaces throughout the city during the winter holiday season.

- Obtained Board of Supervisors approval of permanent status of 10 previously temporary selling spaces in the Wharf area.

- Implemented new hearing procedures which significantly reduced the backlog of street artist violation cases for prosecution: only 4 cases were prosecuted before the Program Committee, while 40 written warnings were sent to first-time violators, and 8 hearings were held by the Program Director acting as hearing officer.

- Collected $4,500 in application fees for certificates (in addition to the certification revenue) due to an ordinance initiated by the Program and the Art Commission.

- Collected $17,000 as compensation from film production companies for street artists displaced from their spaces by filming, thanks to an agreement with the Film and Video Arts Commission initiated by the Program in 1996.

- Wrote, edited and published a 250-page 5th Edition of the Program's handbook ("bluebook") of laws, rules, procedures, and policies, referred to not only by the street artists but by other cities as a blueprint-model program.

- Continued hiring off-duty Police officers to patrol the Downtown/Union Square area during the winter holiday season, keeping the major retail areas clear of unlicensed vendors and obstructions during critical business

hours and benefiting the licensed artists, store merchants and the public.

Commissioner Rogers asked that a letter of appreciation be co-signed by the Director of Cultural Affairs and himself and sent to the Chief of Police and the Station Captain for their department's outstanding service on the street artist detail.

Commissioner Rogers also requested that a review of the new hearing procedures be scheduled for a Program Committee meeting after the new year.

V PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES

Street Artist Virginia Burris inquired as to the status of the "occupancy rule", as there appeared to be a conflict of statements in reference to the rule in Parts I and II of the Program's "bluebook." Commissioner Rogers responded that Ms. Burris had submitted an amended version of the rule at a Program Committee hearing and had been told by the Commissioners to confer with other artists and "clean up" the language of her proposal before re-submitting it to the Committee. The Commissioner asked the Program Director to send Ms. Burris a copy of the Committee's minutes reflecting its last discussion of the item.

Street Artist Virginia Travers informed the Committee that she will be proposing some additional selling spaces on Grant Avenue once the Program Director and she review the sites. Program Director Lazar stated that this will involve his measuring the locations for conformity with the street artist regulations, drawing maps of the locations, and speaking with those merchants and organizations whose stores would be impacted by such locations - all of this prior to a hearing by the Program Committee.

There being no further business to come before the Committee, Commissioner Rogers adjourned the meeting at 5:38 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar, Director
Street Artists Program

SF
A70.75
#2
9/9/98

SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, September 9, 1998
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
SEP 01 1998
SAN FRANCISCO
PUBLIC LIBRARY

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF TEMPORARY WINTER HOLIDAY SELLING SPACES FOR STREET ARTISTS IN THE DOWNTOWN AREA AND AT HARVEY MILK PLAZA, FOR NOVEMBER 15, 1998 - JANUARY 15, 1999**

(The Program Director proposes the **same** 52 temporary selling spaces in the Downtown area as had been designated for the last six winter holiday seasons and the **same** 7 spaces at Harvey Milk Plaza as had been approved the last three winter holiday seasons and the winter holiday season of 1992-93 - and for the **same** time period as had been approved for the last eight years.)

II **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO SUSPEND OR REVOKE CERTIFICATE**

Virginia Burris - Certificate # 2354. Alleged violation: Selling items not of the artist's own creation (commercially manufactured belt buckles not attached to certified belts).

III **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSED AMENDMENTS TO AGREEMENT BETWEEN ART COMMISSION AND FILM AND VIDEO ARTS COMMISSION REGARDING USE OF STREET ARTIST SPACES BY FILM COMPANIES** (continued from 8/12/98 meeting)

IV **HEARING AND POSSIBLE MOTION TO ADOPT A LOTTERY RULE TO ALLOW A LOTTERY COMMITTEE MEMBER WHO RUNS A DOWNTOWN LOTTERY ON SATURDAY TO CHOOSE A SPACE AT THE WHARF SIGN-UP AFTER THE MEMBER WHO RUNS THE WHARF LOTTERY SIGNS UP AND BEFORE THE HELPERS SIGN UP** (continued from 8/12/98 meeting)

V **HEARING ON APPEAL OF RECOMMENDATION OF ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS TO DISAPPROVE ITEM; POSSIBLE MOTION TO APPROVE ITEM**

Continued.....

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
CULTURAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

STREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
1 VAN NESS AVENUE
415.554.6080

CITY AND COUNTY OF SAN FRANCISCO

25 VAN NESS AVE. SUITE 240. SAN FRANCISCO, CA. 94102 TEL. 415.252.2590 FAX 415.252.2595

David R. Morse and Harold F. Brennan - applicants. Appeal of July 30, 1998 recommendation of Advisory Committee of Street Artists and Craftsmen Examiners that Mr. Morse and Mr. Brennan not be certified to sell submitted butterfly and insect specimens in glass-framed boxes.

VI REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

VII PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VIII ADJOURNMENT

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market, one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

SAN FRANCISCO ART COMMISSION

'98

PROGRAMS
IVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
URAL EQUITY GRANTS
SYMPHONY CONCERTS
PUBLIC ART

EET ARTISTS LICENSES
SUITE 70
415.252.2581

MMISSION GALLERY
VAN NESS AVENUE
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

September 9, 1998
Art Commission Conference Room
Suite 70
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
SEP 24 1998
SAN FRANCISCO
PUBLIC LIBRARY

M I N U T E S

Commissioners present: Emery Rogers, Rod Freebairn-Smith, William Meyer

Members absent: Dugald Stermer

Non-voting Commissioner present: Denise Roth

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar

Commissioner Rogers, Chair, called the meeting to order at 3:15 p.m. and welcomed Commissioner Denise Roth as a non-voting observer of the meeting.

I **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF TEMPORARY WINTER HOLIDAY SELLING SPACES FOR STREET ARTISTS IN THE DOWNTOWN AREA AND AT HARVEY MILK PLAZA, FOR NOVEMBER 15, 1998 - JANUARY 15, 1999**

Program Director Lazar proposed the same 52 temporary selling spaces in the Downtown area as had been designated for the previous 6 winter holiday seasons and the same 7 spaces at Harvey Milk Plaza as had been approved for the previous 3 winter holiday seasons and the season of 1992-93, as well as for the same time period (November 15th - January 15th) as had been approved for the previous 8 years.

The Program Director reported that the agenda listing these details was sent to 34 San Francisco store merchants and building owner associations, 27 of whom were in the Downtown-Union Square area. One of these responded: Ms. Linda Mjellem, Executive Director of the Union Square Association.

The Commissioners read Ms. Mjellem's letter which stated that her organization supported the proposal, expected "the street artists to comply with all relevant regulations," and "opposed ... any expansion of the program at this time."

CITY AND COUNTY OF
SAN FRANCISCO

Commissioner Rogers acknowledged that Ms. Mjellem had proven herself, in this and other matters, to be a good friend of the Street Artists Program. The Program Director stated that Ms. Mjellem has maintained an open door of communication in issues dealing with the Program and the Downtown-Union Square area.

No member of the public spoke on the proposal.

Commissioner Freebairn-Smith moved to approve the proposal by the Program Director for Board of Supervisors designation of temporary winter holiday selling spaces for street artists in the Downtown area and at Harvey milk Plaza for November 15, 1998 - January 15, 1999; the motion was seconded by Commissioner Meyer and unanimously approved.

II **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO SUSPEND OR REVOKE CERTIFICATE**

Virginia Burris - Certificate # 2354.

Commissioner Rogers postponed the item to the next month's meeting of the Program Committee.

III **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSED AMENDMENTS TO AGREEMENT BETWEEN ART COMMISSION AND FILM AND VIDEO ARTS COMMISSION REGARDING USE OF STREET ARTIST SPACES BY FILM COMPANIES** (continued from August 12, 1998 meeting)

At the last Program Committee meeting, Commissioner Rogers had asked that the item be continued to the next meeting and that Mr. Peter Rich of NASH BRIDGES PRODUCTIONS be requested to present his reasons for the proposed amendments.

Program Director Lazar summarized the provisions of the present (1996) agreement and the provisions of the proposed amendments which had been negotiated by Peter Rich, Executive Director Robin Eickman of the Film and Video Arts Commission, Street Artists Debra King and Virginia Travers, and Howard Lazar.

On behalf of Peter Rich, Mr. Daniel Kemp, Location Coordinator, NASH BRIDGES PRODUCTIONS, stated that his company's main contention was that its vehicles should be allowed to park on the public street next to street artist spaces without having to pay (to the Art Commission) "egregious" sums of money, often amounting to $1,800 - $2,000

per block, far more than was normally budgeted for parking its trucks and other vehicles. He cited an experience of the previous season whereby his company parked a few vehicles on Jefferson Street while filming was being done inside Cobbs Comedy Club, and the street artists ran a lottery to receive $1,800 in compensation for use of their spaces by his company for only a few hours of the evening. On top of having to pay filming and other fees to the City, this was "the last straw." It prompted Peter Rich to meet with Robin Eickman et al, and a compromise-proposal was developed to provide for reduced fees to the Art Commission for parking only.

Street Artist Virginia Travers, one of the negotiators, stated that she still had a problem with the parking issue, but the proposal was the only solution they could achieve at this time. Her main interest was to see the retention of the present provision for any artist prevented from working in a street artist space to receive $200 compensation. She further stated that some street artists, "fun-sketchers," on Jefferson Street will work as late as midnight, and they should be compensated by any movie company who parks next to their displays.

Mr. Kemp stated that, as a San Francisco native, he too wished to make a living. He added that often production personnel in Los Angeles point to the various fees levied in San Francisco for filmmakers and say that "'San Francisco is much more expensive to shoot in than Los Angeles ... we shouldn't send people to San Francisco.'" Many Bay Area film industry people like himself appreciated the street artists' desire to make a living and therefore supported the Street Arists Program under the current agreement of compensation; but the agreement needed some amending.

Street Artist Virginia Burris asked how much Mr. Kemp's company paid to San Francisco in daily fees for filming.

Mr. Kemp stated that it was $300 a day. He went on to say that the full economic impact to the Bay Area by film-making was $20 million per season, as well as once a week 25 million Americans "see" San Francisco on TV.

Refuting Mr. Kemp's "economic impact" statement, Ms. Travers stated that, as a member of the Screen Actors Guild, she was aware that the casting agent of NASH BRIDGES PRODUCTIONS had been contacted several times for not employing their share of local union extras.

Commissioner Meyer acknowledged the efforts of the individuals involved in the negotiation of complex issues; since an agreement had been reached, he did not feel it was appropriate for the Program Committee to re-examine it. He said he would be comfortable supporting the conclusions reached in the negotiation.

Commissioner Freebairn-Smith stated that he came from a film and video family in Los Angeles; he represented the Telegraph Hill residents to the film industry; and he did not have any sympathy for the "majors" in this issue. "We build their sets," he said; "our blocks are on the order of twenty-four million dollars apiece: a residential block in San Francisco costs that much money to construct"; the film company can light it or film it any way it wants - "the deepest set" a film company "could possibly be given; it's an enormous gift to the film industry."

The Commissioner went on to say that he had much concern, as an Arts Commissioner, that the Commission support independent filmmaking students and non-profit filmmakers in a way that is not the same as the basic commercial enterprise known as the film industry - "one of the biggest buck industries in the state of California," he said. "Film crews hemorrhage money while they're shooting; they have enormous budgets." He cited the features made regularly in his neighborhood that have budgets of $50 million or higher. In contrast, "the street artists live in an entirely different world," and his sentiment was with the street artists. He did not want to burden the Commission with a complicated agreement to administer.

The Commissioner stressed that "our gift to the film industry is an incredibly beautiful city which makes it a remarkable place to shoot." In working here, film crews, he said, are disruptive; even the city Police they hire refuse to restrain the film crews, when asked, because they are under their employ. "The money that is so often reported as boosting the San Francisco economy largely goes to the financiers, the bankers, and the lenders of the film industry which is largely in New York and Los Angeles." The economic return to the city "isn't that significant ... there's a lot of baloney in the numbers that are delivered to San Franciscans about how much the film industry is contributing."

Commissioner Freebairn-Smith expressed the view that film companies should operate out of locations where their trucks

can be grouped, as the at the waterfront. While this would increase the production costs by having to shuttle the crews and actors to the shooting site, the residents of San Francisco would not be disturbed, and streets would not have to be closed. Recently, he said, he was told by a film crew to "walk more quietly"; he responded that he was just walking through a block for which the film company had paid a mere $300, an insignificant amount, he said, for the company. The crew then cleared the block of traffic, and people wanting to go to work could not go through. In summing up, he reiterated that his sympathy was "not at all with the film companies - a major lucrative commercial enterprise" which could afford to compensate the street artists. He urged that any film company which disturbs the artists from making a living be asked to pay "a decent compensation for the day."

Commissioner Rogers acknowledged the film company's interest in fairness and desire to adjust the compensation. However, the Commissioner was "most concerned with the complicated nature" of the proposed agreement - its tiers of fees - and the burdens it would place on staff. He felt the situation was simple: if an artist is disrupted or blocked by a truck, the artist should receive $200. If the artist also finds another space in which to do business, this was only "entrepreneurial." The Commissioner said he could support a proposal of two different fees, which could easily be adjudicated, but he could not support the present proposal of five fees.

Commissioner Roth questioned the reason for the provision for a $125 fee to a street artist who is not allowed to sell but would stand in the background, as this should be a matter solely between the film company and the artist and should not involve the Art Commission.

Program Director Lazar responded that the reason for this was that the space the artist would be occupying is administered by the Art Commission.

Commissioner Freebairn-Smith stated that assistant directors on most location filming carry cash for the purpose of "buying off problems"; the Commissioner himself received payment of $200 for allowing a generator of a film company to be left in his driveway.

Commissioner Roth expressed the view that the proposed agreement should have fewer compensation rates.

Commissioner Rogers called for a motion on the item. No motion was made.

Commissioner Meyer stated that filmmaking was a vital part of San Francisco's economy; it gives "incredible advertising; it costs us very little." The benefits to everyone, including street artists, were indirect but significant. He, for one, supported Mr. Kemp's presence at the meeting "wholeheartedly." The Commissioner went on to say that he wanted San Francisco to remain a competitive city and did not want to see the city lose its competitiveness because of "excessive and outlandish charges compared to what other cities are charging." He felt there was a possibility that San Francisco could lose its opportunities to Vancouver, a city of "equal beauty" whose charges to filmmakers may be significantly lower than San Francisco's. This should be considered in future discussions on modifying the street artist compensation rates.

Commissioner Freebairn-Smith stated that he bore no animosity to the film industry, and that he shared Commissioner Meyer's view that San Francisco remain the center of the film industry for northern California. Filming and recording in Vancouver were done, he said, not because of these issues but because of the larger issues of tax benefits.

Commissioner Rogers thanked everyone who participated in the negotiations of the proposed agreement. He said he would consider a future proposal which would be in a more simplified form. He clarified that the agreement of 1996 was still active. He encouraged Commissioner Roth to participate in any future discussions on a simplified proposal.

IV **HEARING AND POSSIBLE MOTION TO ADOPT A LOTTERY RULE TO ALLOW A LOTTERY COMMITTEE MEMBER WHO RUNS A DOWNTOWN LOTTERY ON SATURDAY TO CHOOSE A SPACE AT THE WHARF SIGN-UP AFTER THE MEMBER WHO RUNS THE WHARF LOTTERY SIGNS UP AND BEFORE THE HELPERS SIGN UP** (continued from August 12, 1998 meeting)

The Program Director referred the Commissioners to a FAXed letter the Program received that morning from Street Artist Therese Koller which opposed "any piece-meal changes to the lottery or Program without a full understanding of the system and what kind of effect this will have." Ms. Koller was not in attendance.

The Program Director referred the Commissioners to a draft of wording of the proposed rule by Street Artists Virginia Burris and Brian Linwell who had attended the last Program Committee hearing on this issue. The Program Director also submitted a copy of the Burris-Linwell draft with his own provisions added to it, after having discussed the proposal with the Program's founding member Bill Clark and other artists.

Street Artist Virginia Burris stated that she agreed with the Program Director's added provisions and offered some amendments to his wording and a further provision. Ms. Burris acknowledged that the essence of the proposed procedures was already stated on pages 220-21 of the Program's "bluebook" of rules and regulations; but it needed to be stated explicitly, and that was the purpose of the proposed language.

Commissioner Rogers stated that at the previous month's meeting the Program Committee understood the intent of the proposed rule; the Committee had gotten frustrated in attempting to draft the proper language and had asked that the matter be continued to the current meeting for adoption of precise wording.

Lottery Committee Member Cheryl Chen informed the Commissioners that some Lottery members have to trade days of conducting lotteries with other members due to unforeseen circumstances, and that one member may run lotteries on two consecutive days.

Ms. Burris stated that recently there was one Lottery member who received many lotteries from other members to run - three or four days in a row - which has angered other members and other street artists. While it did not apply to members, there was a rule that applied to helpers, prohibiting them from running more than two lotteries in a row in a the same lottery period. The rule was written, she said, to prevent people from running too many lotteries which would be unfair.

Street Artist Robert Siu stated that such complaint is aired only during summer because of competition reasons. He endorsed the proposal, as it would deter the trading of lottery days among members.

Commissioner Rogers thanked Ms. Burris and Mr. Linwell for their efforts on the issue.

Commissioner Freebairn-Smith moved adoption of the language of the proposed lottery rule relating to a Lottery Committee member's choice of a sales space; the motion was seconded by Commissioner Meyer and unanimously approved. The approved wording of the rule was as follows:

> LOTTERY COMMITTEE MEMBER'S CHOICE OF SALES SPACE AS COMPENSATION FOR CONDUCTING LOTTERY: The Lottery Committee member may choose a sales space in either the Wharf or Downtown Lottery as compensation for running aforesaid lotteries any day of the week including Saturdays. If the member decides not to take a space in the lottery he or she was designated to run, the member may select a space in the opposite lottery, it being Downtown or Wharf, depending on which one the member was designated to run. Upon choosing to select the opposite lottery as compensation, the member may sign up after the designated Committee member and before the helpers.
>
> On the first or second day of a lottery period, if a Committee member running a lottery chooses a space in the opposite lotterized area, the member may choose a space in that same area for the remaining days available in that lotterized period only by obtaining a number in the mini (secondary) lottery (the member may not choose a space in that area by obtaining a number in the main lottery). This procedure also applies to all days of the winter holiday season when two members run the lotteries each day. The only exception to the above procedure is a Lottery Committee member who runs the main lottery and chooses the opposite lottery in which to sign up for a space on the third day of a three-day lottery period; in this case, the member may enter the opposite main lottery and use his or her number on the first or second day as well as be assigned a space on the third day of the three-day period.

V **HEARING ON APPEAL OF RECOMMENDATION OF ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS TO DISAPPROVE ITEM; POSSIBLE MOTION TO APPROVE ITEM**

David R. Morse and **Harold F. Brennan - applicants.** Appeal of July 30, 1998 recommendation of Advisory Committee of Street Artists and Craftsmen Examiners that Mr. Morse and Mr. Brennan not be certified to sell submitted butterfly and insect specimens in glass-framed boxes.

Program Director Lazar stated that he had informed the appellants that the Program Committee would be asked to determine whether their craft meets the ordinance's definition of "Handcrafted Item" which is "an item predominantly created or significantly altered in form by the street artist." The appellants were requested to bring finished and unfinished samples of their items they wished to sell.

Mr. Lazar explained that the Advisory Committee had not denied that a good deal of work had gone into the preservation and mounting of butterflies, spiders, and other insects; but the Advisory Committee could not see how the insects had "changed" or had been "significantly altered ... visually" by the applicants. The mere mounting of insects in glass-framed boxes did not fit within the purview of the Program. The Program Director added that the Advisory Committee might have accepted the pieces had they been diorama creations incorporating the insects as components atop an artist-created terrain or against an artist-created backdrop.

The Commissioners examined photographs taken of the work at the Advisory Committee examination.

Applicant Harold F. Brennan referred the Commissioners to the printed discussion on "All About Butterfly Farming" published by The Butterfly Farm S. A. which had been mailed to them. Mr. Brennan stated that, for his screening by the Advisory Committee, he had not understood the rules: he thought that he would be quizzed on his "ability to do the art, not on the art itself." He submitted "specimens" of his work, and stated that he used "insects and butterflies as a means of expression."

Commissioner Rogers examined and ascertained that a box-framed tree branch, running diagonally, with insects positioned on it was typical of the finished items Mr. Brennan wished to sell. The Advisory Committee had not seen this finished product; the Advisory Committee had viewed the components - the insects - mounted and framed under glass. Mr. Brennan stated that it had been his error and not the Advisory Committee's.

With respect to what he intended to sell, Mr. Brennan stated that some of the items will have butterflies in the foreground, some will have them in the background, while some will have butterflies in various shapes and sizes positioned as "a cloud."

In response to a question by Commissioner Meyer, Mr. Brennan stated that he did not intend to sell simply an insect mounted in a box.

In response to a question by Commissioner Rogers, Mr. Brennan stated that he had not enhanced the butterflies' colors.

Mr. Brennan described a "conservation" project in Papua, New Guinea "dedicated to preserving these animals forever" by a process called "conservation through commercialization" which gives "the indigenous people an incentive to save the forest and not to farm anything else ... they have a financial reason to keep this land intact, which also helps other animals." Mr. Brennan said his insects come from Papua, New Guinea; Indonesia; and Peru. Some of the insects, he said, are wild; but the majority of the ones he sells are "government mandates" that are "ranched": specific plants are planted to nourish the animals; this system has "kept the forest ... intact."

Commissioner Meyer stated that if the artist makes a composition with the raw materials, then the artist is meeting the mandate of the Street Artists Program; so long as he creates a composition with the insect, rather than merely displaying it, he is creating an art work; and the Commissioner would support a motion to approve it.

Commissioner Freebairn-Smith stated that current in today's invertebrate world is that old fashioned museum collections of "speared insects" are not politically correct; there is a big movement to stop this practice. However, there is a major butterfly museum underway in San Francisco with policies that are being developed governing the display of insects, all of which will be alive. The Commissioner questioned whether the Art Commission would be vulnerable to criticism for allowing the sale of worldwide endangered species.

Mr. Brennan responded that The Nature Conservancy published a June article entitled "Butterfly Ranching" which featured a story of a single mother and her sons ending their poaching in an orangutan preserve and becoming butterfly ranchers. Mr. Brennan went on to say that he himself would not consider selling an insect that is "threatened." He said he was contributing to the creation of an industry which gives the indigenous people a financial incentive to preserve their forest.

Commissioner Freebairn-Smith stated that the fact that one of the compositions showed insects mounted "on a twig" was "almost irrelevant" and that the Commission might be more concerned with ascertaining whether the endeavor was an arts enterprise or "an insect sales program."

Commissioner Meyer asserted that the position of the twig and the relationship of the insects described the item's composition and qualified it for certification.

Program Director Lazar reminded the Commissioners of an earlier "borderline" case in which they had been reluctant to approve an applicant's decoupaged cigar boxes unless there was a sufficient demonstration of collage of images in the decoupaging.

Commissioner Rogers stated that he felt Mr. Brennan's items were "beautiful" and that he could envision them being displayed on a table and being bought because of the "simple beauty of the composition." It was sufficient for the insects to be arranged on a twig and placed in a box for the work to qualify for certification.

Commissioner Meyer moved that the framed compositions of butterflies and insects by David R. Morse and Harold F. Brennan be approved; the motion was seconded by Commissioner Rogers and unanimously approved.

Commissioner Freebairn-Smith wanted it recorded that his was a "cautionary vote."

VI PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES

Street Artist Virginia Burris asked that two items be scheduled for the Committee's November agenda for possible approval of extended time period of their validity: the Amendment of Occupancy Rule, and the Amendment of Lottery Rule V to provide for elimination of election of Lottery Committee members. Commissioner Rogers asked the Program Director to schedule the items for November.

The meeting adjourned at 4:45 p.m.

Respectfully submitted:
Howard Lazar
Howard Lazar
Street Artists Program Director

S F
A C

SAN FRANCISCO ART COMMISSION

SF
A70.75
#2
10/14/98

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts
& Education
ltural Equity Grants
S Symphony Concerts
Public Art

treet Artists Licenses
Suite 70
415.252.2581

Commission Gallery
01 Van Ness Avenue
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, October 14, 1998
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
OCT 08 1998
SAN FRANCISCO
PUBLIC LIBRARY

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION FOR SIX MONTHS OF FIVE SELLING SPACES ON GRANT AVENUE, EAST SIDE, POST TO SUTTER STREETS, AND ONE SELLING SPACE ON GRANT AVENUE, WEST SIDE, POST TO SUTTER STREETS, FOR STREET ARTISTS**

II **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO SUSPEND OR REVOKE CERTIFICATE**

Virginia Burris - Certificate # 2354. Alleged violation: Selling items not of the artist's own creation (commercially manufactured belt buckles not attached to certified belts). (hearing rescheduled from September 9, 1998 meeting)

III **HEARING AND POSSIBLE MOTION TO APPROVE CERTIFICATION OF ART/CRAFT ITEM** (referred back to Committee by full Art Commission, 10/5/98)

David R. Morse and **Harold F. Brennan - applicants.** Request for certification of framed compositions of butterflies and insects.

IV **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE PROGRAM DIRECTOR'S RECOMMENDATION OF DENIAL OF CERTIFICATE**

Victor Hsu - expired certificate # 5200. Alleged violation: Selling in a location not deignated by Board of Supervisors (Ord. 41-83, Section 2405(b)); reported by Police citation following issuance of previous "NOTICE OF WARNING".

V **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

VI **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF**

City and County of
San Francisco

PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VII ADJOURNMENT

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market, one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

DOCUMENTS DEPT.
OCT 27 1998
SAN FRANCISCO
PUBLIC LIBRARY

SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

October 14, 1998
Art Commission Conference Room, Suite 70
25 Van Ness Avenue
San Francisco, California

M I N U T E S

Commissioners present: Rod Freebairn-Smith, Steve Ishii, Denise Roth, Dugald Stermer

Commissioners absent: Emery Rogers

Staff present: Director of Cultural Affairs Richard Newirth
Director of Street Artists Program Howard Lazar
Certification Clerk Antoinette Worthy
Deputy City Attorney Adine Varah

Commissioner Stermer chaired the meeting and called it to order at 3:06 p.m. The Commissioner introduced Commissioners Ishii and Roth as new members and welcomed them to the Committee.

I HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION FOR SIX MONTHS OF FIVE SELLING SPACES ON GRANT AVENUE, EAST SIDE, POST TO SUTTER STREETS, AND ONE SELLING SPACE ON GRANT AVENUE, WEST SIDE, POST TO SUTTER STREETS, FOR STREET ARTISTS

Program Director Lazar referred to a map he drafted of the existing and the proposed spaces on Grant Avenue, Post to Sutter Streets, and explained that he worked with Street Artist Virginia Travers, who had initially requested the Program Committee for more spaces on Grant Avenue, in ascertaining room for six new spaces which would meet all the public safety regulations of the street artist ordinance. In attempting to contact the managers or owners of the various businesses adjacent to the proposed spaces, the Program Director reported that the manager of The Coach Store did not object to the proposed space by his store; the President of Shreve's did not object to the proposed space by his store on condition that the street artists refrain from parking their vehicles all day by the store and that they also maintain the required ten-foot pedestrian passageway between their displays and the store; and the manager of Banana Republic said he would consider two, not four additional spaces by his store, as four more spaces (added to the existing two) would give the sidewalk a "cluttered" appearance and provide less room for customers.

The Program Director was proposing the spaces for a six-month period to replace six prime spaces on Stockton Street,

S F A C
PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Symphony Concerts
Public Art
Street Artists Licenses
Suite 70
415.252.2581
Commission Gallery
11 Van Ness Avenue
415.554.6080
City and County of San Francisco
25 Van Ness Ave. Suite 240, San Francisco, CA. 94102 tel. 415.252.2590 fax 415.252.2595

at Post Street, which could not be used by the artists until next summer due to construction of the adjacent Levi Strauss flagship store.

Street Artist Virginia Travers stated that the artists had lost many spaces due to construction in the Union Square area and that the proposed spaces would be appreciated especially for the upcoming winter holiday in order to replace the "lost" spaces on Stockton Street. She further stated that the artists had an amiable working relationship with the employees of Banana Republic and received compliments on their work from the employees.

Street Artist Sharon MacDougall stated that the artists needed the proposed spaces to replace the six on Stockton Street.

Street Artist Matt Summers stated that he sells by Banana Republic and has never had any problems with the store's employees. He further stated that the particular sidewalk in question had a vast amount of available space, and that the presence of four new spaces, rather than two, would enhance the viability of all four.

In response to questions from Commissioners Freebairn-Smith and Stermer, Ms. Travers said she has never had anyone from Banana Republic inform her that the artists were blocking traffic or adversely impacting the store.

In response to questions from Commissioner Stermer, Director of Cultural Affairs Newirth clarified that it would be possible to submit the full proposal of six spaces to the Board of Supervisors, that the Program Director could alert the Board of a possible objection by Banana Republic to four spaces, and that the Board could decide to reduce the number.

Commissioner Freebairn-Smith commented that he visited the proposed sites and that the block was known to be the sixth or seventh highest retail sales-per-square-foot block in the world; while the location gives the street artists an extraordinary advantage for selling, the Commissioner wanted to maintain a diplomatic relationship with the stores and urged the Commission to be fair.

Commissioner Freebairn-Smith moved that the proposal by the Program Director be approved for Board of Supervisors designation for six months of five selling spaces on Grant Avenue, east side, Post to Sutter Streets, and one selling

space on Grant Avenue, west side, Post to Sutter Streets, for street artists; the motion was seconded by Commissioner Roth and unanimously approved.

II HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO SUSPEND OR REVOKE CERTIFICATE

Virginia Burris - Certificate # 2354. Alleged violation: Selling items not of the artist's own creation (commercially manufactured belt buckles not attached to certified belts). (hearing rescheduled from September 9, 1998 meeting)

Program Director Lazar stated that he received two complaints about Ms. Burris, one regarding an alleged incident of April 21st and the other regarding an alleged incident of June 16th which was later clarified to be June 17th. Each incident occurred on Jefferson Street and each was described in a letter alleging that Ms. Burris had sold a commercially manufactured buckle, not attached to any certified belt, to a customer. Mr. Lazar also stated that, prior to the incidents, Ms. Burris in 1996 and 1997 received written warnings from the Program Director to cease displaying commercially manufactured buckles not attached to her certified belts, based on separate reports of observation by the Advisory Committee of Street Artists and Craftsmen Examiners.

The Program Director further stated that he had not received any verifiable evidence - for example, photo of the incident or actual objects in question - with the written complaints; nor had the Program staff observed the incidents.

Commissioner Stermer consented to the request of Attorney Laura Woodward, representing Ms. Burris, for each plaintiff to give testimony singly and not in the presence of the other plaintiffs. The plaintiffs were asked to leave the room, and each was called one at a time.

Ms. Woodward stated that, in reference to the warnings her client had received, the warnings pertained to her client's display of buckles attached to strips of leather and did not pertain to selling buckles separate from belts. (Further along in the proceeding, Mr. Lazar clarified, however, that the Art Commission traditionally held that the "display" of an object was synonymous with its "sale", as the street artist ordinance used the phrase "sell, offer for sale, expose for sale, or solicit offers to purchase.")

Relative to the incident of April 21st, the first plaintiff, Street Artist Zhong Chen, stated that he saw Virginia Burris sell a buckle to two customers. Ms. Burris was in space "J-1" and he, Mr. Chen, was in space "J-1A".

Cross-examining, Ms. Woodward ascertained from Mr. Chen that he could not see what kind of buckle Ms. Burris allegedly sold, whether it was made by her or commercially manufactured, that it was sold to a lady customer, that the time of day was two or three o'clock, and the other street artists who were near Ms. Burris were Joseph Kober and Robert Siu.

The second plaintiff, Street Artist Joseph Kober, stated that on the day in question he had come from the veterans hospital to meet Robert Siu for lunch. An elderly couple approached Mr. Siu to purchase a belt buckle; he informed them he could not sell a buckle without selling a belt with it. The couple walked away to Ms. Burris's table, whereupon Ms. Burris went to "her little display table where she has the buckles in the back of her regular display", took one and put it in a small bag and gave it to them; as they walked away, she turned around and smiled at Kober and Siu and put the money in her pouch. He added that this was not the first such incident.

In response to questions by the Program Director, Mr. Kober stated that he saw Ms. Burris take money for the buckle, that he was standing by space "J-2" and was therefore a distance of 25' to 30' from Ms. Burris.

Cross-examining, Ms. Woodward ascertained from Mr. Kober that he did not feel he waited so long in filing the complaint (June 2nd) regarding the incident (April 21st); he did not see the buckle from where he was standing; the buckles she has displayed have not been made by her; the male customer was 5'6" - 5'7", the female was an inch or two shorter; the incident occurred in the afternoon; he himself has been in the Street Artists Program for four years and sells his own handmade buckles and belts as well as Native-American jewelry and has never had a complaint brought against him; he was not a friend of Ms. Burris because, he said, she was "a racist."

The third plaintiff, Street Artist Robert Siu, stated that he has been in the Program since 1992, and that on April 21st Ms. Burris was set up in space "J-1", Zhong Chen was in "J-1A", and he, Mr. Siu, was in "J-1-B". A couple came to his table to inquire about buying a buckle by itself;

he explained to them the policy which prohibits such sale. They went directly to Ms. Burris's small table where she kept buckles; there was no measurement taken for belts; the couple stayed for four or five minutes; all the while Ms. Burris had her back to Mr. Siu and Mr. Kober.

In response to questions by Commissioner Stermer, Mr. Siu stated that, while it looked like a transaction occurred, he could not actually see what passed from Ms. Burris's hand to her customer's, that he couldn't see properly from his distance, nor could he see any money exchanged.

In response to questions by Commissioner Roth, Mr. Siu stated that he saw the customers leave with a brown bag.

Ms. Woodward chose to not cross-examine.

In response to Ms. Woodward's questions, Ms. Burris stated that she has been in the Street Artists Program for nineteen years and licensed to sell leather products which included leather buckles and belts and also licensed to sell fabricated metal buckles. (She showed the Commissioners samples of her leather belts, her own leather designs inserted in commercially manufactured brass buckle frames, and her own fabricated metal buckles. The Commissioners compared these items with those shown in the Program's file of her works' examinations, and acknowledged their similarity.) Ms. Burris stated that, while she is licensed to sell the buckles she makes, she does not sell buckles she does not make.

Cross-examining, the Program Director ascertained from Ms. Burris that she did not remember the alleged customers but that if she had sold them a buckle, it would have been one she made herself. Another type of small item of hers which she could have sold them would be a leather hair barrette.

Street Artist Sharon MacDougall stated that she had seen Ms. Burris's handmade buckles on her table.

Commissioner Freebairn-Smith stated that there was no certainty of the type of transaction that had occurred; it appeared to be a simple accusation from a group who believed that Ms. Burris broke a rule.

Commissioner Ishii stated that there did not appear to be sufficient concrete evidence to warrant a finding of violation.

Commissioner Stermer stated that due to the inability of the witnesses to describe what actually changed hands - a barrette, a handmade buckle, or a commercial buckle - he could see no foundation to warrant a suspension or a warning; furthermore, there was an absence of other evidence in the way of a photo of the incident or the transacted object itself.

Commissioner Freebairn-Smith moved to dismiss the charge relative to the alleged incident of April 21st due to a lack of preponderance of evidence; the motion was seconded by Commissioner Roth and unanimously approved.

With regard to the alleged incident of June 17th, the plaintiff, Street Artist Robert Siu, stated that a former customer of his approached him to buy a commercially manufactured buckle from him, whereupon he explained to the customer the policy prohibiting him from doing so. The customer was looking for a western-style buckle with a truck motif and went to the area where Ms. Burris was set up. He returned to Ms. Siu with a buckle showing a Mack truck and the words "Keep on Trucking" and asked Mr. Siu to attach it to a belt the customer had with his name and telephone number imprinted on its back. Mr. Siu obliged him and, before doing so, showed the buckle to Street Artist Mario Hernandez. Mr. Siu's complaint included the customer's name and telephone number.

Program Director Lazar verified that he telephoned the number and left a voice-mail message for the customer; the Program received no response.

In response to questions by Commissioner Stermer, Mr. Siu stated that he observed that the customer did not go beyond Ms. Burris's table, and that when he returned with the item to Mr. Siu, the item was not in any bag from a store.

In response to questions by the Program Director, Street Artist Mario Hernandez stated that Mr. Siu showed him the previously described buckle.

Cross-examining, Ms. Woodward ascertained from Mr. Siu that the customer was a thin middle-aged man and that Mr. Siu later verified that the man had not gone to any nearby store to purchase the buckle because he, Mr. Siu, inquired at the stores.

Commissioner Stermer commented that an issue was whether

the customer should be believed: why did the customer tell Mr. Siu that he bought the buckle at a store when he hadn't done so? Mr. Siu responded that the customer did not have a bag, and the type of buckle he had was from an outlet, S. H. Frank Co., where it could be obtained by Ms. Burris.

In response to further cross-examination by Ms. Woodward, Mr. Siu stated that he chose to wait to file his complaint as a "follow-up" to the previously reported incident; that he was neither friendly with nor against Ms. Burris; that he did not consider her his competitor.

In response to questions by her attorney, Ms. Burris stated that she had never displayed nor sold the "Keep on Trucking" buckle.

In response to a question by Commissioner Roth, Mr. Siu stated that the customer was with Ms. Burris for about four or five minutes, and that the customer did not go beyond her table.

Commissioner Freebairn-Smith commented that he could not see any evidence on which to base taking action on Ms. Burris's certificate.

In response to a question by Commissioner Roth, Program Director Lazar clarified the nature and background of each of the written warnings that had been sent to Ms. Burris, including the responses received from Ms. Burris as well as the Advisory Committee Chair's written clarification/ retort to Ms. Burris's response.

Commissioner Stermer commented that he was not persuaded that the only issue at hand was the alleged sale of commercially produced products, and that he hoped differences would be resolved between the artists. At the same time, as with the previously considered incident, the Commissioner could not verify any evidence of violation beyond a presumption of what may have occurred based on what the witness saw.

Commissioner Roth moved to dismiss the charge relative to the alleged incident of June 17th due to a lack of preponderance of evidence; the motion was seconded by Commissioner Ishii and unanimously approved.

Commissioner Freebairn-Smith stated that it was "logical to perceive that these are not friendly colleagues making

their living together ... but observing what the other is doing." Out of respect for the artists who demonstrated concern for the sales activities in the Program, the Commissioner urged that "an ethical bearing be made" on such activities.

Street Artist Joseph Kober addressed Ms. Burris that "we expect to see" her "buckles on belts" and was admonished by Commissioner Stermer for making a threat.

III **HEARING AND POSSIBLE MOTION TO APPROVE CERTIFICATION OF ART/CRAFT ITEM** (referred back to Committee by full Art Commission on October 5, 1998)

David R. Morse and **Harold F. Brennan - applicants.** Request for certification of framed compositions of butterflies and insects.

Applicant Harold F. Brennan stated that applicant David R. Morse withdrew himself from the request for certification.

Program Director Lazar reiterated the City Attorney's October 5th clarification (discussed at the previous full Art Commission meeting) that, while the "Commissioners and members of the public are not prohibited from discussing public policy objections to the sale of certain art or craft items", the Art Commission "under the Street Artist Ordinance ... lacks the authority to deny a Street Artist Certificate based on public policy objections to materials used in a particular art or craft item" unless "the use of a material in the handcrafted art or craft items offered for sale is unlawful under federal, state or local laws or regulations." The Commission, therefore, in considering whether to certify an item, is restricted to ascertaining whether the item meets the Street Artist Ordinance's definition of "Handcrafted item": "an item predominantly created or significantly altered in form by the street artist."

After the full Art Commission's decision to refer the request back to the Program Committee, the Program Director reminded the applicants in writing that the Commission voted to require them to submit at least one dozen finished samples of the items they wished to sell in order for the Program Committee to determine whether the work qualified under the definition of "Handcrafted Item".

The Commissioners viewed a display of Mr. Brennan's finished items. In response to a question by the Program Director,

Mr. Brennan affirmed that he would sell on the street the same calibre of compositional work as that which was submitted. He went on to state that "the animal in question" was a sacred symbol, first, to the Greeks, then to the Christians and the Buddhists. He felt the problem was that he should have initially introduced himself to the street artists and explained to them what he wanted to sell. He said that the Nature Conservancy and the World Wildlife Fund supported what he was doing.

Mr. Brennan submitted a letter on his behalf from Joseph Gaul of Gaul Searson Limited, a gallery working with Mr. Brennan. He also presented an National Geographic article on New Guinea people who farm butterflies.

As the Commissioners viewed each of his framed compositions, Mr. Brennan described the significance of each. Several compositions contained butterflies not permanently attached or fixed in the composition.

In response to questions by Commissioner Stermer, Mr. Brennan stated that the retail price range of the samples was $20 to $150. He said he has sold pieces up to $1,000 and has also sold some items at cost in order to attract attention. He said he assembled and finished the boxes, and that the cardboard cartons came with them.

Commissioner Stermer observed some beetles that had been encrusted with glass jewels; in this case, there was alteration of the form of the components.

Mr. Brennan said he wanted the Commissioners to tell him which of his items he could sell, and that he did not care what they were "as long as I get to sell ... to get the message out."

Mr. Brennan showed sketches where he positioned the beetles. He described how he would "temporarily" position the insects with a hot-glue gun so that he could add or subtract insects as per the request of the gallery. He described how he opened the wings of butterflies with pins in order to display them, and that the butterflies came folded in packages. He said he took much time in spraying the display glass to make it clean. As a cost-saving measure, he placed his orders with another buyer in importing the insects. He said he did not sell endangered animals, and that his "point" was that "these animals should not become extinct."

He showed a butterfly of San Mateo that became extinct, he said, when the paving a parking lot eliminated the butterfly's food source.

Commissioner Roth noted that in one framed composition a butterfly was not attached and could get broken; Mr. Brennan replied that it was a mistake which he had intended to correct.

For one composition of a butterfly suspended above a miniature replica of a human skull, Mr. Brennan stated that he purchased the skull.

Commissioner Stermer asked the street artists in attendance what the price range was for items sold on the street; the answer he received was that it generally ranged from $5 to $100, the norm being from $10 to $50.

Mr. Brennan continued to describe his process; in unfolding the wings of the packaged butterflies, he said, "I re-animate them. ... I'm trying to reflect nature much like, you know, somebody else that didn't alter nature but captured nature at its best."

Commissioner Stermer stated that he had different information relative to some of the specifics mentioned by Mr. Brennan. With respect to Mr. Brennan's statement that he had the support of the Nature Conservancy and other environmental groups and the edition of the National Geographic which, the Commissioner said, was "not in the forefront of the environmental" movement, there were letters received by the Art Commission from other environmental groups who differ in their opinion from Mr. Brennan's views. The Commissioner noted that there was no one present at the meeting who had made a study of the product line. He cautioned his fellow Commissioners that Mr. Brennan's statements of having environmental group support should not be taken "as a blanket endorsement of killing bugs for profit." While "Third World countries need to do what they do to survive," there was a "big school of thought that says we don't have to help them." These issues aside, the Commissioner reminded his colleagues that the issue which required attention was whether Mr. Brennan's work met with the provisions of the street artist ordinance.

In response, Mr. Brennan stated that the bristles in brushes which artists use come from animals, that some of the paints come from insects and animals, and that what he was trying

to do "creates a passion in people ... I'm not in it just for profit. ... I'm trying to raise awareness of what's happening to things around us."

In response to questions by Commissioner Stermer, Program Director Lazar stated that the Advisory Committee of Street Artists and Craftsmen Examiners, which initially reviewed the work, did not see any compositional samples but saw what appeared to be framed butterfly and insect collections; the Advisory Committee did not see either any alteration to the butterflies and insects nor any placement of them in a compositional sense. The Advisory Committee had acknowledged the efforts that had gone into pinning the insects and framing them but did not feel that the items fit the ordinance because there was no predominant creation nor significant alteration of the items.

In response to a request from Commissioner Stermer for clarification, Deputy City Attorney Varah referred to her written clarification of October 5th and stated that the Art Commission lacked the authority to deny a street artist certificate based on public policy objections to materials used in a particular art or craft item. "Public policy objections," she said, referred to "objections based on perceived social, moral or environmental harms associated with the use of a material in, or the methods in which a material is obtained, harvested, produced or prepared for use in, an art or craft item where such uses or methods are not illegal under federal, state or local laws or regulations." The core issue to consider was whether the art or craft item fulfilled the street artist ordinance's definition of "Handcrafted Item".

Mr. Brennan stated that his compositions could be compared to many items the Commission had allowed - for example, store-bought beads that are not altered but are re-assembled; or a strip of leather with embellishment added to it. He affirmed that he was taking raw materials and "painting ... with beetles and bugs, making a different bug than originally existed."

Speaking on behalf of Mr. Brennan, Mr. Fernando Echales stated that if the butterflies were altered, the essence of the butterfly would be lost.

In opposition, Street Artist Matt Summers stated that there would be no way of verifying that the butterflies used in Mr. Brennan's work were raised on farms, and that he did

not think the Art Commission wanted to have a reputation of depleting the environment.

In support of Mr. Brennan, Mr. Walter Rosenthal asked the Commissioners to follow the City Attorney's advice and decide whether the materials were being used in compositional format; if the Commission were to deny Mr. Brennan, it should re-examine its decisions to allow leather, dried flowers, or anything that is used in a composition. He asked that the Commissioners set aside the environmental issues.

Commissioner Stermer responded that it was not the Commissioners but Mr. Brennan who raised the environmental issue.

Street Artist Virginia Travers stated that she discovered a company called "Butterfly Creations" in Foster City that sold, she said, "suspiciously similar items" in craft fairs. She asked that Mr. Brennan produce receipts attesting to where he purchased the butterflies, the glass frames, and other items, in order to verify that he was not purchasing from "Butterfly Creations." She asked that, if his items were approved, Mr. Brennan be closely monitored on the street to verify that his items met the criteria.

Commissioner Roth ascertained that Mr. Brennan had submitted eleven samples of framed items.

Street Artist Virginia Burris stated that Mr. Brennan's samples reminded her of the pendant/beadcraft issue whereby a commercially manufactured pendant is not allowed in a beadcraft item unless it is significantly altered by the artist or is an integral part of, or subordinate to, the design of the beadcraft item.

The Program Director, echoing Ms. Burris's statement, posed the question of whether a box-framed display of commercially manufactured pendants, or any objects not made by the artist, would be allowed under the definition of "Handcrafted Item." He felt that a determination would have to be made on whether the artist's compositional usage of such items outweighed the predominant focal items (pendants or butterflies) and their package (the glass frame) that were not created or significantly altered by the artist.

Street Artist Gary King stated that the alteration done by Mr. Brennan was in his opening of the butterflies' wings, that his compositions were "beautiful", and that he went to a lot of work to make them.

Commissioner Freebairn-Smith, addressing Mr. Brennan's statements of wanting to promote public awareness, commented that he had not found in any of the nature or conservation groups of which he belonged any support for the butterfly/insect/farming/art item, although the forthcoming butterfly museum of San Francisco informed him that "it isn't necessarily all bad" when the butterflies are guaranteed a harvesting from a conservation farm. However, his Commission was not charged with deciding such an issue. In considering Mr. Brennan's items with respect to the provisions of the street artist ordinance, the Commissioner stated that the butterflies were "exquisitely beautiful without giving" Mr. Brennan "any credit whatsoever" for he "had nothing to do with that." The Commissioner went on to say that he was not persuaded that Mr. Brennan "was doing anything that meets the definition" (of "Hancrafted Item"). He stressed that he was persuaded now, whereas he was not initially, to follow the Advisory Committee's view that the work did not qualify under the ordinance.

Commissioner Roth stated that the compositional aspect of Mr. Brennan's work needed to carry the weight in the Committee's determination. Mr. Brennan, she said, did not make the butterfly; nor did he make the box - he assembled it. The Program Director's most recent letter to Mr. Brennan reiterated the directive given him by the full Commission: bring at least one dozen finished samples to the Program Committee; Mr. Brennan submitted eleven, then submitted a twelfth. The Commissioner further noted that the little skull replica was merely purchased and not altered by Mr. Brennan; and that "most of" the butterflies "had very little alterations other than bringing them out of" their packaged shapes. "As far as significant alterations," the Commissioner stated that "very few" of Mr. Brennan's submitted items represented "significant alterations" and "a lot of them have little."

Commissioner Ishii stated that he had to put aside the issues of concerns about butterflies and had to consider what was composed or put together for selling. He assessed "some degree to alter" the components - for example, he was not certain that only the frame or only the butterfly on the stick could be sold, whereas they could as "a piece", a framed picture or a table piece. He said he saw "it as an altered piece" and, in terms of the ordinance's definition, a significantly altered piece.

Commissioner Ishii moved that Harold F. Brennan be approved

for certification of framed compositions of butterflies and insects; the motion was seconded by Commissioner Roth. The vote was as follows: Ishii - for. Freebairn-Smith, Roth, Stermer - against.

IV HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING ON POSSIBLE MOTION TO APPROVE PROGRAM DIRECTOR'S RECOMMENDATION OF DENIAL OF CERTIFICATE

Victor Hsu - expired certificate # 5200. Alleged violation: Selling in a location not designated by Board of Supervisors (Ord. 41-83, Section 2405(b)); reported by Police citation following Program issuance of "NOTICE OF WARNING".

Mr. Hsu was not present. The Program Director reviewed the history of Police citations issued to Mr. Hsu on May 24, May 26, June 10, 1997 and April 4, 1998; the Program Director's "NOTICE OF WARNING" issued to him on June 18, 1997 and "NOTICE OF INTENT TO RECOMMEND DENIAL OF CERTIFICATE OR RENEWAL" issued to him on April 27, 1998.

It was noted that Mr. Hsu's certificate had expired.

Commissioner Roth moved that, upon his submittal of application for a new certificate, the Program Committee hear and consider a motion to approve re-certification of Victor Hsu; the motion was seconded by Commissioner Ishii and unanimously approved.

V PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES

Street Artist Virginia Travers informed the Commissioners that, when she was in Honolulu, she sent the Mayor's Office of Arts and Culture her copy of the Art Commission's "blue-book", Street Artists Program, and that consideration was being given to establishing a street artists program for Waikiki.

*

Recently-certified Street Artist Gary King submitted a written complaint regarding enforcement of the street artist regulations. He cited problems, particularly at Hallidie Plaza, where the artists refused to display their certificates or produce them upon request; where some of the artists were selling items they did not make; and where there were unlicensed vendors. Mr. King went on to say

that not only did the artists refuse to show him their certificates but he was harrassed by them and by the unlicensed vendors for asking. In another location, Grant Avenue, he was told by the artists that they would oblige such a request from the Art Commission staff or the Police but not from anyone else.

Mr. King said there were "twelve unlicensed artists" selling at Hallidie Plaza. In response to a question by Commissioner Stermer, he stated that "they were unlicensed because they refused to show" him "their ID cards." The Commissioner stated that it did not necessarily mean they were not licensed.

Mr. King went on to describe the problem of unlicensed vendors selling jewelry items that he himself was not allowed to sell and were taking business away from him.

Another problem he cited was the inability to determine whether a space was available for him to occupy if it was already occupied by a vendor who may be unlicensed but refused to produce a license. Some artists told him they had been selling for eighteen years and did not have to show their certificates to him. Many artists, he said, who did have certificates protested when he tried to photograph their displays.

Program Director Lazar stated that, with respect to the unlicensed vendors at Hallidie Plaza, he had written to the Captain of Southern Station to increase police monitoring of the area. The Street Artists Program did not have the funds to hire off-duty Police officers year round.

Commissioner Stermer asked that the issue of making it a staff priority to check for certificates be calendared on the next agenda of the Program Committee. The Commissioner thanked Mr. King for raising these issues but commented that if he, Commissioner Stermer, were a street artist for fifteen years and was asked by someone who had just been licensed to show his license, "I might catch an attitude too."

Mr. King stated that, by becoming a street artist, he was "buying into a market" and expected everyone to follow the rules, as he was attempting to do so.

Commissioner Freebairn-Smith stated that he was appreciative of receiving the information, that "we would have loved

to have created a level playing field for everyone, by the book, where everyone is competing on the same ground, but it's a very imperfect world out there."

Commissioner Stermer stated he wished there were enough Police to make the Street Artists Program a priority, "but frankly, where I live, I'd rather have them on my block than down there worrying about permits." The Program did not have the funds to hire off-duty Police year round, other than for winter and summer selling seasons.

Commissioner Stermer adjourned the meeting at 6:05 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Street Artists Program Director

SF
A70.75
#2
11/9/98

SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

Monday, November 9, 1998
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

NOTE: Change of meeting date

DOCUMENTS DEPT.
NOV 05 1998
SAN FRANCISCO
PUBLIC LIBRARY

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Symphony Concerts
Public Art

Street Artists Licenses
Suite 70
415.252.2581

Commission Gallery
1 Van Ness Avenue
415.554.6080

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE AND POSSIBLE MOTION TO TO APPROVE ISSUANCE OF CERTIFICATE OR RENEWAL OF CERTIFICATE

Fernando Hechavarria - Certificate # 4642. Alleged violation: Offering for sale items not of the artists own creation (commercially manufactured silver rings).

II HEARING AND POSSIBLE MOTION TO APPROVE EXTENDED TIME PERIODS FOR LOTTERY RULE AMENDMENTS

A. **Amendment of Occupancy Rule** (approved by full Art Commission on May 1, 1995; eliminates provision for a "marked" (assigned) space to remain vacant until the assigned artist uses it, and provides for a lottery to be held after the Noon Lottery to distribute vacant assigned spaces among non-assigned artists who may occupy such spaces until such time as they are occupied by the assigned artists).

B. **Amendment of Lottery Rule V** (approved by full Art Commission on December 4, 1995; eliminates election of Lottery Committee members and for selection of members by lot).

III HEARING AND POSSIBLE MOTION TO APPROVE AS PRIORITY ENFORCEMENT STAFF VERIFICATION OF CERTIFICATES IN STREET ARTIST SELLING AREAS

IV REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

V PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

City and County of San Francisco

VII ADJOURNMENT

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

SAN FRANCISCO ART COMMISSION

PROGRAMS
Civic Art Collection
Civic Design Review
Community Arts
& Education
ltural Equity Grants
S Symphony Concerts
Public Art

treet Artists Licenses
Suite 70
415.252.2581

Commission Gallery
01 Van Ness Avenue
415.554.6080

SF
A70.75
*2
12/98
No Mtg

DOCUMENTS DEPT.
NOV 19 1998
SAN FRANCISCO
PUBLIC LIBRARY

N O T I C E

There will be no meeting of the STREET ARTISTS PROGRAM COMMITTEE for December, 1998.

The next meeting of the Street Artists Program Committee is scheduled for **Wednesday, January 13, 1999, 3:00 p.m.** in Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

November 18. 1998

City and County of
San Francisco

SF
A70.75
#2
1/13/99

SAN FRANCISCO ART COMMISSION

DOCUMENTS DEPT.

JAN 19 1999

SAN FRANCISCO
PUBLIC LIBRARY

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
LTURAL EQUITY GRANTS
S SYMPHONY CONCERTS
PUBLIC ART

TREET ARTISTS LICENSES
SUITE 70
415.252.2581

COMMISSION GALLERY
)1 VAN NESS AVENUE
415.554.6080

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, January 13, 1999
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE AND POSSIBLE MOTION TO TO APPROVE ISSUANCE OF CERTIFICATE OR RENEWAL OF CERTIFICATE (rescheduled from 11/9/98)**

Fernando Hechavarria - Certificate # 4642 (expired 12/11/98). Alleged violation: Offering for sale items not of the artist's own creation (commercially manufactured silver rings).

II **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSED AMENDMENTS TO AGREEMENT BETWEEN ART COMMISSION AND FILM AND VIDEO ARTS COMMISSION REGARDING USE OF STREET ARTIST SPACES BY FILM COMPANIES**

III **HEARING AND POSSIBLE MOTION TO REQUEST BOARD OF SUPERVISORS FOR TEMPORARY SELLING SPACES TO REPLACE TEMPORARY LOSS OF SPACES ON HYDE STREET, EAST SIDE, BEACH TO JEFFERSON STREETS, DUE TO RENOVATION OF WHARFSIDE BUILDING**

(A one-year period of construction, commencing June of 1999, is scheduled for the interior conversion of the Wharf-side Building to a hotel, restaurant, and historical mari-time exhibit space.)

IV **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

V **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VI **ADJOURNMENT**

CITY AND COUNTY OF
SAN FRANCISCO

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

DOCUMENTS DEPT.

JAN 26 1999

SAN FRANCISCO
PUBLIC LIBRARY

S F
A C

SAN FRANCISCO ART COMMISSION

.75

Richard Newirth
or of Cultural Affairs

13/99

Programs

Civic Design Review
Community Arts
& Education
Performing Arts
Public Art

ultural Equity Grants
Suite 60

Civic Art Collection
treet Artists Licenses
Suite 70

Commission Gallery
01 Van Ness Avenue
415.554.6080

'thecity.sfsu.edu/sfac/
sfac@thecity.sfsu.edu

STREET ARTISTS PROGRAM COMMITTEE

January 13, 1999
Art Commission Conference Room, Suite 70
25 Van Ness Avenue
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Steve Ishii, Denise Roth, Dugald Stermer

Commissioners absent: Rod Freebairn-Smith

Staff present: Director of Cultural Affairs Richard Newirth
Street Artists Program Director Howard Lazar
Certification Clerk Antoinette Worthy
Deputy City Attorney Adine Varah

Commissioner Rogers, Chair, called the meeting to order at 3:05 p.m.

I **HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE AND POSSIBLE MOTION TO APPROVE ISSUANCE OF CERTIFICATE OR RENEWAL OF CERTIFICATE (rescheduled from 11/9/98)**

Fernando Hechavarria - Certificate # 4642 (expired 12/11/98). Alleged violation: Offering for sale items not of the artist's own creation (commercially manufactured silver rings).

Program Director Lazar reported that on August 21, 1998 Certification Clerk Worthy and he visited Hallidie Plaza and observed that Mr. Hechavarria was displaying three trays containing a total of seventeen commercially manufactured rings, each imprinted on the inside of its band the word "Mexico". Both Ms. Worthy and Mr. Lazar counted the rings; photos were taken, including a photo of Ms. Worthy's hand holding up one of the rings. (Mr. Lazar submitted the photos as evidence to the Commissioners.)

In examining documents relating to Mr. Hechavarria's history in the Street Artists Program, the Commissioners observed that in 1992 the Art Commission revoked his certificate based on several findings, one of which was Mr. Hechavarria's having sold jewelry items not of his own creation. He later reapplied for a new certificate, and in 1994 the Commission heard evidence of incidents in which Mr. Hechavarria continued to sell items not of his own creation. Nevertheless, the Commission voted to approve his request for a new certificate and, in so doing, strongly warned him that if he violated any provision of the street artist

CITY AND COUNTY
OF SAN FRANCISCO

ordinance in the future, it would be grounds for a final revocation of his certificate. Mr. Hechavarria and his supporting character witnesses at his hearing responded to the Commissioners that they understood the warning; the Commissioners asked the witnesses to remind him of it. The Commissioners also directed the Program Director to remind him of his and his supporters' acknowledgment of the warning by stating this in a letter to him; the letter was sent to him on September 7, 1994.

Upon his re-admittance to the Program and a subsequent visit to his home by the screening committee to verify that he made his own rings, Mr. Hechavarria was approved to sell a specific style of fabricated metal ring. Many hours were spent by the screening committee with him making it clear to him what he would be allowed to sell and what he would not be allowed to sell.

Now, four years later, according to the Program Director, Mr. Hechavarria was observed once again selling items not of his own creation - one of the most serious violations of the street artist ordinance.

Program Director Lazar clarified that, as Mr. Hechavarria's certificate had expired on December 11, 1998, he had no certificate to revoke; instead, the Commissioners were being requested to consider whether, in view of the current evidence presented, he should be issued a new certificate.

Mr. Hechavarria was present. Speaking on his behalf was Attorney Paul L. Garofalo who told the Commissioners that his client and he did not deny that there were rings "on that tray" that should not have been displayed. Asking for possible lenience, Mr. Garofalo explained that his client's past history had made him "very much into staying by the book ... the ordinance" and that the recent incident was "a slip up ... a careless mistake". He went on to say that his client was an artist supporting two children and realized the value of being able to earn a living from selling his work on the street. His client was also "sponsored by San Francisco State's La Raza chapter, and he sells on that campus"; and that on August 21st the Mexican rings that his client could sell on the campus remained on his "trays of rings" when he set up at Hallidie Plaza. "He forgot to pull them out," although he was "more than adequately aware" of the strictness of the terms of selling a product.

Mr. Garofalo submitted packages of rings which he said his client had made and were "not all that entirely different from the rings that say 'Mexico'." He went on to say that his client did not know he had the "Mexico" rings on display, and that "if somebody had come up and said 'May I buy this ring - How much is it?' he would have said 'Oh wait a minute, you can't buy that; that can't sell here, that was an accident that it's on my tray'."

Mr. Garofalo stated that his client was willing to make whatever amends were necessary and was "very aware of how serious" the violation was. Mr. Garofalo asked that the Commissioners forgive his client or give a penalty appropriate to the mitigating circumstances.

Commissioner Rogers verified that the Program Director had not seen Mr. Hechavarria selling since the expiration of his certificate on December 11th.

In response to a question by Commissioner Stermer, the Program Director stated that the rings submitted by Mr. Garofalo looked like the type which the screening committee had allowed Mr. Hechavarria to sell.

The Program Director read from his inspection duty logbook that on August 21st Ms. Worthy and he arrived at Hallidie Plaza at noon, observed two unlicensed vendors at 12:20 and 12:40, telephoned the Police twice, and approached Mr. Hechavarria's display at 12:50. During all this time, Mr. Hechavarria was at his display; in fact, according to the logbook, he was set up only three spaces away from the space being occupied by one of the illegal vendors with whom the Program Director was conversing and therefore Mr. Hechavarria was fully aware of staff presence.

The Program Director, in referring to the photographs, described how the three trays of illegal rings were prominently displayed at the front of Mr. Hechavarria's display, before the rest of his merchandise.

Ms. Worthy told the Commissioners that on August 21st the Program Director and she counted the questionable rings and found that each was stamped "Mexico" on the inside. In one of the submitted photos, she identified her hand holding one such ring. She further stated that the Program Director and she were at Hallidie Plaza for "at least and hour waiting for the Police to come" before approaching Mr. Hechavarria's display.

In cross-examining Ms. Worthy, Mr. Garofalo made a point that if his client had been aware that the unauthorized rings were on his display, he would have removed them immediately upon seeing the Art Commission staff.

In response to questions by Commissioner Roth, Ms. Worthy stated that all seventeen rings were not on one but three trays.

Commissioner Rogers stated that Mr. Hechavarria's history in the Program showed two previous incidents of his selling items fabricated by someone else. It was clear that he had received the necessary warnings. While the Commissioner was "loathe to take somebody's license because ... it affects their ability to make a living, ... in this particular case I have to say that this is really egregious." The Commissioner was willing to consider taking action other than a permanent denial of certification, but there should be a minimum of six months before the Commission received an application from Mr. Hechavarria, subject to review at that time by the Program Committee.

Commissioner Stermer agreed and stated that Commissioner Rogers' "offer was a generous one under the circumstances." He went on to say that he did not believe that, after several warnings and knowing of "the primary restriction" (against an artist's selling an item not of his own creation), Mr. Hechavarria simply forgot and left the illegal rings on his display. Because of this, the Commissioner was not inclined to re-certify him at this time and had no objection to hearing a plea for re-certification in six months or so.

Commissioner Stermer moved that Mr. Hechavarria be found in violation for offering for sale items not of the artist's own creation; the motion was seconded by Commissioner Roth and unanimously approved.

Commissioner Rogers moved that an application by Mr. Hechavarria for a new certificate be not considered until July, 1999 or later; the motion was seconded by Commissioner Ishii and unanimously approved.

II **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSED AMENDMENTS TO AGREEMENT BETWEEN ART COMMISSION AND FILM AND VIDEO ARTS COMMISSION REGARDING USE OF STREET ARTIST SPACES BY FILM COMPANIES**

The Commissioners reviewed the draft by Deputy City Attorney Varah of the proposed amendments reflecting a two-tiered compensation system proposed by Commissioner Rogers in his November 12, 1998 letter to Mayor Brown. According to the draft, a film company would be obliged to pay to the Street Artists Program a fee of $200 a day for each space required by the film company to remain vacant or to be encroached upon; but if the film company merely parked its vehicles in the street adjacent to a street artist space "without physical presence in, encroachment onto or access through" the space, the film company would have to pay $50 a day for each space with the exception of such spaces on Beach Street (Hyde to Larkin Streets) where the fee would be $90.

The Commissioners noted, in the draft, the additions of the following significant provisions: film companies entering into a use agreement with the Film Commission would be required "as a condition of the use agreement" to "obtain the prior consent of the Street Artists Program Director ... for each designated street artist space used or adversely affected by filming ..."; the Street Artists Program Director could "not unreasonably withhold the consent ... from a film company wishing to use designated street artist spaces ..." and the Executive Director of the Film Commission and the Street Artists Program Director would "have the authority to resolve disputes ...in a manner consistent with the spirit and intent of" the agreement and would "work cooperatively to ensure that the film companies and the street artists comply with the terms of this agreement."

Commissioner Rogers called for public comment on the item. No one from the audience offered any comment.

Commissioner Roth stated that the new draft simplified the compensation for the two types of major impact by a film company on a street artist space.

In response to questions from the Commissioners, the Program Director stated that he had sent a copy of the draft with the meeting's agenda to Peter Rich of NASH BRIDGES PRODUCTIONS, Carole Isaacs of the Film Commission, and Hala Hijazi of the Mayor's Office.

Commissioner Rogers commented that he was pleased that the draft met no opposition. He commended Ms. Hijazi for her help in the matter.

Commissioner Stermer moved to approve the City Attorney's draft incorporating proposed amendments to the agreement between the Art Commission and the Film and Video Arts Commission regarding use of street artist spaces by film companies; the motion was seconded by Commissioner Roth and unanimously approved.

Commissioner Rogers thanked Deputy City Attorney Varah for her work on the draft.

Program Director Lazar asked Ms. Hijazi to again request Peter Rich of NASH BRIDGES to honor the previous agreement and compensate the Street Artists Program with $3,600 for adversely impacting street artists spaces in March, 1998. The Program Director reported that he was still receiving inquiries from those artists waiting for their compensation. Ms. Hijazi said she would talk to Mr. Rich about the money.

III **HEARING AND POSSIBLE MOTION TO REQUEST BOARD OF SUPERVISORS FOR TEMPORARY SELLING SPACES TO REPLACE TEMPORARY LOSS OF SPACES ON HYDE STREET, EAST SIDE, BEACH TO JEFFERSON STREETS, DUE TO RENOVATION OF WHARFSIDE BUILDING**

Program Director Lazar reported on his conversation with Tom LaTour, President of Kimpton Group, who will commence in June a one-year period of construction for the interior conversion of the Wharfside Building to a hotel, restaurant, and historic maritime exhibit space. The Wharfside Building is surrounded by 32 legally designated street artist spaces most of which were granted by the Board of Supervisors in the early 1970s: 21 spaces on Hyde Street, 6 spaces on Jefferson Street, and 5 spaces on Beach Street. According to Mr. LaTour, during the one-year construction period the Hyde Street sidewalk will be closed, while the Jefferson Street sidewalk will be somewhat affected and the Beach Street sidewalk least affected.

The Program Director stated that while minimally impacted spaces on Jefferson and Beach streets could be shifted eastward during the construction period, the spaces on Hyde street would have to be relocated elsewhere. Fortunately, upon completion of the renovation, all the spaces will be able to return to their designated locations, as the Wharfside Building is a national historic site whose exterior cannot be altered with new doorways (which would have the effect of eliminating spaces).

The Program Director stated that 10 of the 21 spaces on Hyde Street could be relocated to the opposite sidewalk of the street (the west sidewalk); though the sidewalk is narrower than the east sidewalk, and there is a line of tourists mounting the steps to the cable car plaza, the presence on the sidewalk of the JCDeCaux kiosk and various street musicians with electronic equipment do not seem to hinder pedestrian safety. Should street artist spaces be relocated to that sidewalk, the Board of Supervisors would have to be requested to exempt the spaces from the 10-foot-pedestrian-passageway regulation.

Street Artist Mark Kasek stated that he had investigated the North Beach area and had suggested to the Program Director that there was room for some street artist spaces on Green Street, north side, at Columbus; Union Street, north side, Columbus to Stockton (adjacent to Washington Square); and Stockton Street, west side, at Green.

Street Artist Gloria Kasek supported the Program Director's idea to relocate 10 of the Hyde Street spaces to the west sidewalk of Hyde Street and supported Mark Kasek's suggestion of Stockton and Green streets as a street artist area.

With respect to the possibility of spaces on Union Street adjacent to Washington Square, the Program Director stated that he had viewed the site and found that there is a bus zone running the entire length of the curb; but, because the width of the sidewalk is more than average, there could be room for 5 spaces fronting the park, commencing near the Stockton Street corner, which would leave 10 feet of pedestrian passageway from the front of the artists' displays to the curb. Furthermore, another 5 spaces could be created between the bus shelter and the JCDeCaux toilet, the spaces falling roughly in the middle of the sidewalk in this area as the sidewalk indents the park with public benches; the spaces would, therefore, be 8 - 9 feet in front of the benches and 10 feet away from the curb. All the spaces would require exemption from the bus zone regulation and the regulation requiring a space to be not more than $4\frac{1}{2}$ feet from the curb.

With respect to the possibility of spaces on Green Street, north side, at Columbus, the Program Director reported that there is room for 4 spaces, 3 of which would meet all the regulations, 1 which would require exemption from the doorway regulation as there is an adjacent vacant

Columbus Savings building with an unused main entrance door. The sidewalk is evidently a viable area, as the Program Director learned from Mr. Kasek that illegal vendors sell there regularly.

Commissioner Stermer expressed disfavor over the possibility of spaces situated across from the park benches on Union Street; he wished to preserve for the bench patrons the view of the street and not a view of the backs of vendors. He could support the presence of spaces adjacent to the park at its Stockton Street corner, as well as the possibility of spaces on Green Street at Columbus.

Commissioner Rogers commented that the Commission and the artists should be cognizant of the fact that North Beach has very powerful neighborhood associations.

Street Artist Maria Hillius proposed that the spaces on Leavenworth Street, at Jefferson Street (adjacent to The Cannery), which had been used traditionally by the portrait artists, be offered to all street artists, as the spaces were seldom being used by the portrait artists.

Commissioner Rogers stated that, when his Committee heard this issue previously, a large contingent of portrait artists attended the meeting and defended their usage of the spaces. In order to hold a hearing to re-open the issue, the Commissioner would want to see a compilation of statistics on portrait artist usage of the spaces and not submittal of "anecdotal evidence."

Street Artist Brian Hopper, a portrait artist, stated that the Leavenworth spaces are in heavy use by the portrait artists from March through Labor Day; at the present time they are barely used because of the cold weather. He cautioned against general usage of the spaces for another reason: The Cannery could "retailiate" by asking that the first three spaces at the corner of Jefferson Street be removed, which would render the remainder of the Leavenworth Street spaces useless, as the prime flow of traffic is on Jefferson Street, not Leavenworth.

Street Artist David Campos proposed that former spaces "8" and "9" on Jefferson Street (which had been withdrawn by the Port Commission in deference to The Cannery's doorway) be re-designated for a year. He also proposed that spaces be considered for Golden Gate Park near 8th Avenue.

The Program Director stated that in 1977 the Board of Supervisors designated 23 spaces in Golden Gate Park at the Music Concourse subject to the approval of the Recreation and Park Commission. When so requested, Rec-Park refused to give its approval. In recent history, Rec-Park withdrew its twenty-year approval of Justin Herman Plaza for the artists.

Commissioner Stermer urged the Committee to consider spaces that would be possible to attain on a temporary basis.

Mr. Campos proposed that Sloat Boulevard, adjacent to the San Francisco Zoo, be considered for 8 possible spaces; it has a wide sidewalk. He also proposed the area of Jefferson Street between Pier 39 and Pier 41 (an area subject to the approval of the Port Commission).

Street Artist Daniel De Guevara proposed that two spaces be created on Jefferson Street, south side, at Leavenworth.

The Program Director clarified that former space "J-9" had originally been at that location and was removed due to a doorway built into the corner shop of The Cannery.

Street Artist Harlan Simon proposed that spaces be created outside Moscone Center. Commissioner Rogers commented that this was Redevelopment Agency territory.

The Commissioners directed the Program Director to survey the following areas for replacement spaces and to commence negotiations with impacted citizen/merchant associations and City agencies, as per the following order of priority:

1) Hyde Street, west side, Beach Street to Jefferson Street (possible 10 spaces).

2) Union Street, north side, Columbus Avenue to Stockton Street (possible 5 spaces); Green Street, north side, at Columbus Avenue (possible 4 spaces); Stockton Street, west side, at Green Street (possible 3 spaces).

3) Sloat Boulevard, outside the San Francisco Zoo (possible 8 spaces).

4) Moscone Center (possible ? spaces).

5) Jefferson Street between Pier 39 and Pier 41 (possible ? spaces).

Commissioner Stermer moved that the Program Director proceed to investigate the above areas for possible spaces to replace the temporary loss of spaces on Hyde Street, east side, Beach to Jefferson streets; the motion was seconded by Commissioner Ishii and unanimously approved.

IV REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

Program Director Lazar reported on the success of the off-duty Police officers hired by the Program for the winter holiday season in the Downtown-Union Square area. For their assigned period of December 11 - 26th, the officers issued a total of 44 citations, comprising 37 unlicensed vendors and 1 licensed street artist; and confiscated unlicensed merchandise (wristwatches, jewelry, sweaters, handbags, scarves, etc.) in 35 incidents, the merchandise loaded into a van and transported to Central Station.

The major areas of confiscation did not include the Union Square area. They were Sansome Street (Sutter to Bush) and California/Montgomery. This revealed that the Street Artists Program's six years of paying the Police showed a marked success in that the unlicensed vendors, according to the Program Director, "got the message" of expected police presence in the Union Square area and stayed away, by and large, from that area to commit their violations elsewhere.

The Program Director stated that he personally witnessed one of the officers count and confiscate 79 wristwatches and 3 bags of wool scarves from one unlicensed vendor whose name appears annually on police reports.

The Commissioners noted that Sansome Street is a year-round problem area of unlicensed vendors and is cleaned up for any duration of time, when the Street Artists Program can afford to do so, at winter holiday time.

The Commissioners also noted that one of the violators cited was an unlicensed vendor who is currently appealing to the Board of Appeals to overrule the Art Commission's denial of issuing him a certificate.

Commissioner Rogers asked the Program Director to find

out how much money has been paid in fines by the violators cited by the officers hired by the Program and to also find out the status of the legislation prepared, on behalf of the Art Commission, by the City Attorney to appropriate to the Program revenue derived from such fines.

Commissioner Stermer asked that a study with photos be made of the year-round usage of Sansome Street by the unlicensed vendors, so that such data may be employed with an argument to request that the area be designated for licensed street artists.

Commissioner Rogers stated that he had observed, among the street artists along Market Street, a better than 50% compliance in displaying the certificate, while every artist who had not been displaying the certificate put it out immediately upon request.

Commissioner Rogers further stated that he had observed the continuous presence of the same unlicensed vendors on Market and Montgomery. Program Director Lazar responded that he had observed them selling jewelry, clothing, and tapes and CDs bearing the name "SUKAY", whereupon he had alerted the officers and was informed that the merchandise belonged to an organization called "SUKAY" which has been issued a Charitable Solicitors Certificate by the Police Department. Nevertheless, it was the Program Director's understanding that the only merchandise allowed for sale under such certification is merchandise that verbally or pictorially describes the nature or purpose of the charity; there was no evidence of this in the photos taken by the police of these vendors' tables nor observed first hand by the Program Director who intended to notify the Police Permit Bureau of this non-compliance.

There being no further business, the meeting adjourned at 4:38 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Street Artists Program Director

S F
A C

SAN FRANCISCO ART COMMISSION

Richard Newirth
ctor of Cultural Affairs

SF
A70.75
#2
3/10/99

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, March 10, 1999
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.

MAR 0 5 1999

SAN FRANCISCO
PUBLIC LIBRARY

A G E N D A

Programs
Civic Design Review
Community Arts
& Education
Performing Arts
Public Art

Cultural Equity Grants
Suite 60

Civic Art Collection
Street Artists Licenses
Suite 70

rt Commission Gallery
401 Van Ness Avenue
415.554.6080

://thecity.sfsu.edu/sfac/
: sfac@thecity.sfsu.edu

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE PROGRAM DIRECTOR'S RECOMMENDATION OF DENIAL OF CERTIFICATE OR RENEWAL

Suong Nguyen - Certificate # 4843. Alleged violation: Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Section 2405(b)); second violation.

II HEARING AND POSSIBLE MOTION TO REQUEST BOARD OF SUPERVISORS TO DESIGNATE ELEVEN (11) TEMPORARY SELLING SPACES ON HYDE STREET, WEST SIDE, BEACH TO JEFFERSON STREETS, AS PARTIAL REPLACEMENT OF LOSS OF TWENTY-ONE (21) SELLING SPACES ON HYDE STREET, EAST SIDE, BEACH TO JEFFERSON STREETS, DUE TO RENOVATION OF WHARFSIDE BUILDING; DESIGNATION TO COMMENCE WITH RENOVATION DISPLACEMENT OF SPACES ON EAST SIDE OF HYDE STREET AND TO TERMINATE UPON RESTORATION OF SPACES ON EAST SIDE OF HYDE STREET

III HEARING AND POSSIBLE MOTION TO REQUEST BOARD OF SUPERVISORS TO APPROVE ORDINANCE ESTABLISHING STREET ARTIST FUND AS AN INTEREST-BEARING FUND

IV HEARING AND POSSIBLE MOTION TO APPROVE RECOMMENDATIONS (FEBRUARY 25, 1999) OF ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS AMENDING SCREENING CRITERIA FOR LIMITED EDITIONS OF CERTAIN ART AND CRAFT ITEMS REPRODUCED BY THIRD PARTIES

A. Motion to approve artist's attachment to the back of each print, created by the artist or reproduced by a third party, an "EDITION STATEMENT" containing name of artist, title of print, type (medium) of print, edition number of print limited for sale in the Street Artists Program, and a statement that the print may be available for sale outside of the Program.

Continued .....

City and County
of San Francisco

B. Motion to approve amending criteria for "COMPUTER-GENERATED & 'NEW TECHNOLOGY' ART" by replacing provision for a limit of fifty (50) copies per edition of laser-printed or photocopied images with a provision for one thousand (1,000) copies per edition.

C. Motion to approve amending criteria for "PHOTOGRAPHY" by replacing provision for a limit of two hundred (200) copies per edition of machine commercial prints and three hundred (300) copies per edition of machine custom prints with a provision for one thousand (1,000) copies per such editions.

D. Motion to approve amending criteria for "PRINTMAKING" by replacing provision for a limit of five hundred (500) copies per edition of prints not made by the artist with a provision for one thousand (1,000) copies per edition with the exception of such prints incorporated in notecards, magnets, or other items created by the artist.

E. Motion to approve provision for a limit of one thousand (1,000) copies for sale of each size of a print not made by the artist.

F. Motion to approve provision for Advisory Committee consideration on a case-by-case basis of requests to eliminate the edition limit for a print not made by the artist.

V REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

VI PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VII ADJOURNMENT

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

DOCUMENTS DEPT.

FEB 04 1999

SAN FRANCISCO
PUBLIC LIBRARY

SAN FRANCISCO ART COMMISSION

Richard Newirth
ector of Cultural Affairs

0.75
2
10/99
nceled

Programs

Civic Design Review
Community Arts
& Education
Performing Arts
Public Art

Cultural Equity Grants
Suite 60

Civic Art Collection
Street Artists Licenses
Suite 70

rt Commission Gallery
401 Van Ness Avenue
415.554.6080

//thecity.sfsu.edu/sfac/
: sfac@thecity.sfsu.edu

NOTICE

The meeting of the STREET ARTISTS PROGRAM COMMITTEE scheduled for **Wednesday, February 10, 1999** has been **cancelled.**

The next meeting of the Street Artists Program Committee is scheduled for **Wednesday, March 10, 1999, 3:00 p.m.** in the Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

February 2, 1999

City and County
of San Francisco

DOCUMENTS DEPT.
MAR 24 1999
SAN FRANCISCO PUBLIC LIBRARY

S F A C

SAN FRANCISCO ART COMMISSION

0.75

Richard Newirth
ector of Cultural Affairs

0/99

Programs

Civic Design Review
Community Arts & Education
Performing Arts
Public Art

Cultural Equity Grants
Suite 60

Civic Art Collection
Street Artists Licenses
Suite 70

Art Commission Gallery
401 Van Ness Avenue
415.554.6080

tp://thecity.sfsu.edu/sfac/
ail: sfac@thecity.sfsu.edu

STREET ARTISTS PROGRAM COMMITTEE

March 10, 1999
Art Commission Conference Room, Suite 70
25 Van Ness Avenue
San Francisco, California

M I N U T E S

Commissioners present: Emery Rogers, Steve Ishii, Denise Roth, Dugald Stermer

Commissioners absent: Rod Freebairn-Smith

Staff Present: Director of Cultural Affairs Richard Newirth
Street Artists Program Director Howard Lazar
Certification Clerk Antoinette Worthy
Deputy City Attorney Adine Varah

Commissioner Rogers, Chair, called the meeting to order at 3:10 p.m.

I HEARING ON ALLEGED VIOLATION OF STREET ARTIST ORDINANCE; HEARING AND POSSIBLE MOTION TO APPROVE PROGRAM DIRECTOR'S RECOMMENDATION OF DENIAL OF CERTIFICATE OR RENEWAL

Suong Nguyen - Certificate # 4843. Alleged violation: Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Section 2405(b)); second violation.

Program Director Lazar stated that, upon receiving a copy of the Police report citing Ms. Nguyen for selling in an illegal location, and noting that she had received a written warning for each of three previous incidents of the same offense, the Program Director sent Ms. Nguyen a "NOTICE OF INTENT TO RECOMMEND DENIAL OF CERTIFICATE OR RENEWAL" with an invitation to meet with the Program Director for consideration of issuance of certificate. Ms. Nguyen chose not to meet with the Program Director; in keeping with the Art Commission's Section 5 procedures, the matter was submitted to the Program Committee for a possible motion to approve the Program Director's recommendation of denial of certificate or renewal.

The Program Director outlined the history of Ms. Nguyen's four incidents of selling in a location not approved by the Board of Supervisors: August 4, 1995; August 16, 1996; December 19, 1997; and December 18, 1998. The Commissioners noted that the history encompassed one incident for each of Ms. Nguyen's years as a licensed artist in the Street Artists Program; and that two of the incidents occurred during the winter holiday selling season.

CITY AND COUNTY OF SAN FRANCISCO

2 VAN NESS AVENUE, SUITE 240 SAN FRANCISCO, CA 94102 PHONE (415) 252-2590 FAX (415) 252-2595

For evidence, the Program Director submitted copies of the Police reports and citations of the incidents, including photographs taken by the Police of Ms. Nguyen's display set up with merchandise on the sidewalk of 55 Sansome Street, an illegal location, the most recent incident (December 18, 1998).

Ms. Nguyen stated that, with regard to the most recent incident, she had set up to sell on Market Street but could not park her car on Market Street; she parked it on Sansome Street. By 6:00 p.m., she had brought her merchandise back to Sansome Street where she proceeded to re-stock her table for the next day when the officer cited her for selling.

The Commissioners noted that, in the Police report of the recent incident, the officer had written: "I observed Ms. Nguyen selling jewelry from her display." Similarly, in the Police report of August 4, 1995, another officer had written: "We observed ... Nguyen standing behind a table of merchandise including silver jewelry assisting customers of her business."

Commissioner Rogers asked Ms. Nguyen why she sold in non-designated locations so often, especially since she had received tickets for doing so. Ms. Nguyen responded that sometimes she forgets to go to the street artist lottery for spaces and, instead, looks at the map of spaces and sometimes looks "at the wrong location."

Commissioner Roth noted that Ms. Nguyen had been cited in the following non-designated locations: 55 Sansome Street (12/18/98); previously at Sansome Street (at Bush Street) (12/19/97); Market Street at Spear Street (8/16/96); and 100 Sutter Street (8/4/95). The two annual incidents on Sansome Street occurred during consecutive winter holiday selling seasons.

Commissioner Rogers stated that Ms. Nguyen's documented selling activity was "so chronic" that her certificate should be restricted from being renewed for a three-month period of time, commencing after Ms. Nguyen's hearing procedure.

Commissioner Stermer stated that Commissioner Rogers' recommendation was "reasonable", as the suspension would occur during months that are not the prime selling season. He noted the repetitiveness of Ms. Suong's violations.

The Commissioners noted that Ms. Suong's certificate would be expiring on March 24th.

Commissioner Stermer moved that Suong Nguyen be found in violation of Ordinance 41-83, Section 2405(b), for having sold in locations not designated by the Board of Supervisors, that Ms. Nguyen's certificate be renewed, and that, upon the date of its issuance or renewal, the certificate be suspended for a period of three months; the motion was seconded by Commissioner Roth and unanimously approved.

Commissioner Rogers moved that any future violation of the same type (Section 2405(b)) by Ms. Nguyen be grounds for consideration of suspension of certificate for a minimum of one year or revocation; the motion was seconded by Commissioner Ishii and unanimously approved.

II **HEARING AND POSSIBLE MOTION TO REQUEST BOARD OF SUPERVISORS TO DESIGNATE ELEVEN (11) TEMPORARY SELLING SPACES ON HYDE STREET, WEST SIDE, BEACH TO JEFFERSON STREETS, AS PARTIAL REPLACEMENT OF LOSS OF TWENTY-ONE (21) SELLING SPACES ON HYDE STREET, EAST SIDE, BEACH TO JEFFERSON STREETS, DUE TO RENOVATION OF WHARFSIDE BUILDING; DESIGNATION TO COMMENCE WITH RENOVATION DISPLACEMENT OF SPACES ON EAST SIDE OF HYDE STREET AND TO TERMINATE UPON RESTORATION OF SPACES ON EAST SIDE OF HYDE STREET**

Commissioner Rogers acknowledged the February 23, 1999 letter from the National Park Service opposing the proposal.

Program Director Lazar informed the Commissioners that he had sent drawings of the proposed sites to representatives of the Park Service and the Fisherman's Wharf Merchants Association and had invited them to give their input at this meeting. The Commissioners noted that no representative from either organization was in attendance.

The Program Director went on to say that, in granting such spaces, the Board of Supervisors would have to exempt the spaces from Section 2405(c)(16) which requires street artists to maintain a pedestrian passageway of at least ten feet; the west sidewalk of Hyde Street is not wide enough to allow the artists to maintain a ten-foot passageway. Instead, the artists would be able to maintain an eight-foot passageway. The Program Director was prepared to argue at the Board of Supervisors that the eight-foot passageway would be sufficient because on the same sidewalk

a JCDeCaux kiosk was placed which leaves a pedestrian passageway of only five feet and two inches. Furthermore, numerous performers with instruments and electronic equipment set up on the sidewalk, and their sizeable reduction of the pedestrian thoroughfare, just like the kiosk's, is tolerated - even during the busy summer season.

Commissioner Rogers called for public testimony.

While Street Artist Madeline Morrow supported the National Park Service's position and opposed the proposal for reasons of overcrowding, Street Artists Mark Kasek, David Campos, Theresa Mabalatan, Susan Pete, and applicant Robert Gilman supported the proposal. Among their reasons was the necessity of replacing Wharf spaces with Wharf spaces, as most of the street artists - especially on weekends and especially during summer - sell at the Wharf.

It was clarified that, if approved, the new Hyde Street spaces would commence upon the loss of the permanent spaces on the east side of Hyde and would terminate upon the restoration of the east side spaces. The president of the construction company which would be renovating the Wharfside Building had informed the Program Director that the displacement period of the east side spaces would be about a year.

Commissioner Stermer moved that the Board of Supervisors be requested to designate eleven (11) temporary selling spaces on Hyde Street, west side, Beach to Jefferson Streets, as partial replacement of the loss of twenty-one (21) selling spaces on Hyde Street, east side, Beach to Jefferson Streets, due to renovation of the Wharfside Building, and that such designation commence with renovation displacement of the spaces on the east side of Hyde Street and terminate upon restoration of the spaces on the east side of Hyde Street; the motion was seconded by Commissioner Ishii and unanimously approved.

Commissioner Rogers urged that street artists show their support of the proposal at the Board of Supervisors.

III HEARING AND POSSIBLE MOTION TO REQUEST BOARD OF SUPERVISORS TO APPROVE ORDINANCE ESTABLISHING STREET ARTIST FUND AS AS INTEREST-BEARING FUND

The Commissioners acknowledged a January 21, 1999 letter from Chief Assistant Controller John W. Madden to the Pro-

gram Director, which stated that legislation would be necessary to commence crediting interest to the Street Artist Fund; that, should interest be credited, "the Fund bear its share of the Countywide Cost Allocation Plan (COWCAP) costs"; and that there was "no way for the fund to be credited with interest earnings in years prior to enactment of interest allocation legislation."

The Commissioners reviewed a draft of the Street Artists Fund Ordinance prepared by Deputy City Attorney Adine Varah and Mr. Madden, and noted its provision for interest to "be credited by the Controller on any balance of funds accumulated in excess of $50,000 remaining in said fund at the close of any month."

In response to questions from Commissioner Rogers, the Program Director clarified that, until the creation of the Street Artists Program's special fund, the Program in the 1970s deposited its fee revenue into the General Fund, received annual allocations from the Board of Supervisors, and was not permitted to retain its fee revenue over Program expenses. With the creation of the special fund in 1980, the Program has been allowed since that time to carry forward its accumulated savings or "unreserved fund balance" from one year to the next.

Street Artist Bill Clark told the Commissioners that he supported the legislation and that, with respect to the Program's incurring COWCAP charges, the street artists have always been willing to pay their fair share of governmental costs. In addition, with the Commission's submittal of the legislation, Mr. Clark wanted to have an opportunity to address the Board of Supervisors on the issue of the General Fund's retention of the Program's surplus fee revenue of the 1970s.

Street Artist Robert Clark told the Commissioners that he felt it was an "insult from the Controller" for the Program to now be charged COWCAP costs if the interest-bearing legislation is passed. Mr. Clark further stated that the Program was missing over $200,000 of surplus fee revenue retained by the General Fund in 1972-79, and that if the Program had been allowed to keep that money, its accumulated interest would "far outweigh" any COWCAP costs. The City, he said, was supposed to have paid the surplus fee revenue back to the Street Artists Program from the City's tax revenues, according to state business laws. Because the City has not done so, he and his brother will

approach the Attorney General and ask that criminal charges be brought against certain individuals. Before proceeding with criminal charges, he requested that the Commissioners and the Program Director ask the Board of Supervisors, at the hearing on the interest-bearing legislation, to return the $200,000.

In response to questions from the Commissioners, Mr. Lazar verified that in the 1970s the Program's annual fee revenue was considerably more than its expenses because the Program's salaries were funded by Federal EEA and CETA funds.

Commissioner Roth moved that the Board of Supervisors be requested to approve the drafted ordinance establishing the Street Artist Fund as an interest-bearing fund; the motion was seconded by Commissioner Ishii and unanimously approved.

IV **HEARING AND POSSIBLE MOTION TO APPROVE RECOMMENDATIONS (FEBRUARY 25, 1999) OF ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS AMENDING SCREENING CRITERIA FOR LIMITED EDITIONS OF CERTAIN ART AND CRAFT ITEMS REPRODUCED BY THIRD PARTIES**

The Program Director explained that the Advisory Committee had spent two meetings reviewing the present screening criteria for limited editions, had re-affirmed the principle of establishing limited editions, but had not been unanimous in its vote for an across-the-board limitation.

Commissioner Rogers stated that the following sub-items calendared under Item IV would be considered simultaneously by the Committee:

A. Motion to approve artist's attachment to the back of each print, created by the artist or reproduced by a third party, an "EDITION STATEMENT" containing name of artist, title of print, type (medium) of print, edition number of print limited for sale in the Street Artists Program, and a statement that the print may be available for sale outside of the Program.

B. Motion to approve amending criteria for "COMPUTER-GENERATED & 'NEW TECHNOLOGY' ART" by replacing provision for a limit of fifty (50) copies per edition of laser-printed or photocopied images with a provision for <u>one thousand (1,000)</u> copies per edition.

C. Motion to approve amending criteria for "PHOTOGRAPHY" by replacing provision for a limit of two hundred (200) copies per edition of machine commercial prints and three hundred (300) copies per edition of machine custom prints with a provision of one thousand (1,000) copies per such editions.

D. Motion to approve amending criteria for "PRINTMAKING" by replacing provision for a limit of five hundred (500) copies per edition of prints not made by the artist with a provision for one thousand (1,000) copies per edition with the exception of such prints incorporated in notecards, magnets, or other items created by the artist.

E. Motion to approve provision for a limit of one thousand (1,000) copies for sale of each size of a print not made by the artist.

F. Motion to approve provision for Advisory Committee consideration on a case-by-case basis of requests to eliminate the edition limit for a print not made by the artist.

Commissioner Rogers congratulated the Advisory Committee on its efforts.

Advisory Committee Chair Mathew Porkola requested that the full item not be approved in its present form of edition limits of 1,000 copies, as a compromise on the issue could have been reached by reducing the proposed limitation number and allowing the artists to apply this number to each size of a particular print they wished to sell. Mr. Porkola went on to say that editioned prints should be sold in numerical order subject to occasional monitoring by the Advisory Committee. He recommended that the edition number be 200, not 1,000, because of the allowance provided for in Item IV(E); he said that Advisory Committee member Susan Tibbon agreed with him.

Street Artist Edward Steneck said that limiting/numbering the artists' prints and photographs was, for the Street Artists Program, a bad idea, and that he favored open (unlimited) editions.

Street Artist Sharon MacDougall submitted sample prints of her paintings of various sizes. She stated that she did her own matting, and that it would be impossible to

maintain a running count of each of her prints.

Street Artist Bill Clark stated that, while it was he who had been the one to initiate the controversy on whether books and other items involving third-party participation could be considered "handcrafted items" under the street artists ordinance, he opposed the proposal of establishing limited editions as it constituted a restraint of trade. Rather than continuing to adopt limited edition numbers, the Art Commission should decide which products qualify as a "handcrafted item" under the ordinance and which do not. He asked that the Commission investigate the restraint-of-trade issue as it pertained to the street artist ordinance.

Robert Gilman, applicant for a street artist certificate, stated that there were controls in the Advisory Committee examination process to prevent the introduction of mass-market products. If limited editions were to be considered, he supported the proposed "1,000" figure. He went on to say that other changes, besides size, of a particular image should constitute a different edition of the image.

Street Artist Mark Monsarrat opposed a mandated limitation on the number of prints an artist could sell. He stressed that, with recent improvements of technology, emphasis is placed primarily on the creativity of images. Limited editions, he said, is practiced by galleries to inflate the value of what they are selling. The Street Artists Program's attempts to limit the number of third-party produced prints in deference to those artists who have chosen a more difficult craft to produce "smacks of communism," he said.

Street Artist Susan Pete questioned the Program's ability to enforce the sale of limited editions. Instead of enforcing a numerical limitation, she recommended that the Program enforce a time limit on the sale of prints.

Street Artist Madeline Morrow agreed with Ms. Pete that the sale of limited editions was unenforceable and saw no reason to establish rules that could not be enforced.

Street Artist Matt Summers stated that he has certain photo-prints that he has sold over and over for the past twenty years, and that they are "new to new customers." Because of such successes, he did not feel these same prints should now be limited.

Street Artist Bill Clark stated that the reason he had initially raised the issue of third-party produced craft items was that the street artists ordinance provides that a street artist applicant must swear under penalty of perjury that "the applicant neither employs persons nor is employed by another person in the production of the art or craft item for which the applicant seeks certification."

Street Artist Robert Clark stated that if third-party produced items qualify in the Program, then the artists should sell as many as they want. However, if the Commission wished to enforce limits, he recommended that artists, when they renew their certificates, meet with the Program Director to discuss the numerical status of the prints they are selling.

Advisory Committee Chair Mathew Porkola said that enforceability was not an issue for his committee; rather, the committee was concerned with the equitability between artists who do everything by hand on their craft and artists who have third parties to contribute to the production of their craft.

After Commissioner Rogers closed public testimony, Commissioner Stermer stated that he felt the Clarks were "absolutely correct on a literal basis" in that the Street Artists Program is for "handmade" objects, and that allowing for the participation of third parties in the production of crafts could open negative doors. The Commission had to decide on whether to administer a "pure" interpretation of the law or to allow some flexibility. Commissioner Stermer went on to say that, while the Advisory Committee did great work on the issue, he was reluctant to vote on the recommendations at this time; he had "very serious misgivings ... about an arbitrary number of a thousand" applied across the board and cited, as an example, the injustice of imposing a limitation on one of Ansel Adams' popular photographs. While a successful print should not be restricted in its sales, the Commissioner favored the labeling of a statement on the print's back for the sake of "truth in advertising": the public should understand the type of print it is purchasing. He felt the issue of the numerical limit should be re-heard for a consensus.

Commissioner Roth stated that she agreed with Commissioner Stermer and that it would appear that the Commission could be "punishing" a successful artist by putting a limit on

the editions of his or her work.

Commissioner Ishii stated that, given the involved history of the issue, it would be difficult for him to make a decision at this time in support of either the Advisory Committee's recommendations or the expressed sentiment of the street artists.

Commissioner Rogers stated that, as before, he still believed that the issue had to be observed from "an entrepreneurial standpoint, not an artistic standpoint". The street artists were not galleries "selling to people who come in through our doors; we are out on the frontlines of entrepreneurialism in San Francisco." The artists have an opportunity to dispense as widely as possible their expression, and they have the opportunity to use technology and reduced production costs to disseminate their art "farther and wider than it ever has been before." In so doing, everyone benefits: the buyer benefits, the artist benefits, the City benefits in its collection of license fees. The Commissioner added that an attempt to limit an artist's production of items is unenforceable, and the Commissioner did not want to see another layer of enforcement added to the Program.

Commissioner Rogers concluded that the issue of open editions was worthy of discussion. He also stated that it would not be difficult for an artist to imprint on the back of his or her print a statement that it is an unlimited edition which may be available in other venues. He invited further discussion on this topic of including such a statement. Aside from this, he reiterated that he could not support limited editions.

Commissioner Rogers asked Deputy City Attorney if the Commission would be exposing itself to future legal problems if the Commission were to refrain from imposing limits on editions of items.

Deputy City Attorney Varah responded that it was within the Commission's discretion to modify its guidelines within the parameters of the street artists ordinance, and that the Commission was not bound to always keep its guidelines of edition limits. The Commission must consider whether it will be acting in a capricious, arbitrary manner inconsistent with the street artists ordinance.

Commissioner Rogers stated that he would not mind if an

artist imposed a limitation on his or her prints in order to enhance the value of the prints; but he would be steadfastly opposed to having the Commission impose and enforce a limitation. Rather than support the current recommendations, he would, at a future meeting, entertain a motion to eliminate the present edition numbers altogether.

Prior to calendaring such a motion, the Commissioner asked that the issue return to the Advisory Committee.

Commissioner Stermer moved that the Advisory Committee of Street Artists and Craftsmen Examiners conduct a hearing on the matter of eliminating the present limited edition numbers inherent in the current screening criteria for limited editions of art and craft items reproduced by third parties; the motion was seconded by Commissioner Roth and unanimously approved.

V REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

Program Director Lazar reported that the Board of Appeals on March 17th would be hearing applicant Harold Brennan's request for the Board to overrule the Art Commission's denial of certification of his framed compositions of butterflies and insects.

The Program Director reported on his progress in negotiations over the temporary selling spaces in areas proposed by the Commissioners last month in order to replace the twenty-one spaces on Hyde Street that will be rendered unuseable for a year by the renovation of the Wharfside Building (Haslett Warehouse). The Program Director will be submitting his proposals for spaces in the North Beach area and in front of the San Francisco Zoological Gardens at next month's Program Committee meeting.

He also reported that, with the signing of the new compensation agreement between the Art Commission and the Film and Video Arts Commission, the Street Artists Program finally collected the compensation owed to the artists by NASH BRIDGES PRODUCTIONS from March of the previous year. In addition, the Program had recently collected compensation for its artists from another film production company which had displaced the artists from their spaces.

VI PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES

Commissioner Stermer reported on two vibrant street fairs he had observed on his recent visit to Cuba. The fairs were selling exceptional samples of handcrafted items that included carved wood, papier mache, and jewelry.

*

Street Artist Tad Sky informed the Commissioners that street artists have continued to sell at Justin Herman Plaza since it was designated as a selling area by the Board of Supervisors in 1972. Since that time and over the next twenty years, the Recreation and Park Commission which has jurisdiction over the Plaza, granted permission to the artists on an annual basis to use the Plaza. A few years ago, permission was withdrawn when Rec-Park passed a resolution to prohibit vending on its properties (with the exception of vending related to specific events using Park property). Over the past five years, the Program Director and Mr. Sky have each tried to secure a permit renewal from Rec-Park and have received no response. While Rec-Park has not attempted to remove the artists, the Plaza is now under construction as part of the Embarcadero project, and the artists' future at the Plaza is uncertain. Mr. Sky asked the Program Commissioners to communicate to Rec-Park that the artists are committed, as they have been for the past twenty-six years, to selling at the Plaza and to again secure, on their behalf, Rec-Park permission to continue selling there.

The Program Director clarified that, when the Program was established in 1972, the only selling area granted by the Board of Supervisors for the street artists was the Plaza (at that time it was called "Embarcadero Plaza" and was under the control of the Redevelopment Agency). It was on the outskirts of town and not very desireable as, at that time, there was no Hyatt Regency Hotel and no Embarcadero Center. Nevertheless, the artists "homesteaded" the Plaza, and their sales over a quarter of a century testify to the artists' contribution to the Plaza's appeal.

The Program Director further clarified that Rec-Park passed its resolution prohibiting selling on their properties out of direct reaction to the "epidemic of so-called 'charitable solicitors'" who, with their massive volume of T-shirts and sweatshirts for sale, were regularly encamped in front of the Tea Garden and other aesthetic locations under Rec-Park's control. With Rec-Park's resolution targeting such non-licensed vendors, no exemption from the

prohibition was made for the artists at Justin Herman Plaza. When the artists' permit for the Plaza expired, it was not renewed.

Mr. Sky stated that whenever Rec-Park has issued a permit for an event at the Plaza, the artists have always complied with the directives of the event's personnel. He further stated that because the location is a Plaza and not a sidewalk, the street artist regulations governing display size for sidewalk locations do not apply, and the artists have been allowed to have larger displays to showcase large-scale visual art.

Commissioner Rogers responded that his Committee members should speak to Art Commission President Stanlee Gatti about this issue and arrange for a meeting between commissioners and staff of both departments.

*

Street Artist Xavier LeBon suggested, as a possible way of replacing the temporary loss of the Hyde Street Spaces, that there be created an additional row of spaces on Beach Street opposite the existing row of spaces, leaving a pedestrian passageway between the two rows.

Street Artist Robert Clark expressed opposition to the idea because many years ago artists set up illegally across the sidewalk from the artists in the legal spaces, and it took several years to convince the artists that if they used the Hyde Street spaces they would find such spaces viable and would not have to set up illegally on Beach Street.

The Commissioners agreed that consideration of Mr. LeBon's suggestion would have to be calendared for a hearing.

There being no further business, Commissioner Rogers adjourned the meeting at 5:16 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Street Artists Program Director

DOCUMENTS DEPT.

APR 07 1999

SAN FRANCISCO
PUBLIC LIBRARY

SAN FRANCISCO ART COMMISSION

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, April 14, 1999
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
25 Van Ness Avenue
San Francisco, California

A G E N D A

Note: Public testimony is invited and shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I **HEARING AND POSSIBLE MOTION TO REQUEST BOARD OF SUPERVISORS TO DESIGNATE TEMPORARY SELLING SPACES IN NORTH BEACH AS PARTIAL REPLACEMENT OF TEMPORARY LOSS OF TWENTY-ONE (21) SELLING SPACES ON HYDE STREET, EAST SIDE, BEACH TO JEFFERSON STREETS, DUE TO RENOVATION OF WHARFSIDE BUILDING; DESIGNATION TO BE FOR ONE YEAR COMMENCING WITH DISPLACEMENT OF HYDE STREET SPACES**

On February 1, 1999, the full Art Commission approved its Street Artists Program Director to investigate the following selling locations as a priority for Commission consideration in partially replacing the temporary loss of the Hyde Street spaces:

A. Possible motion to approve six (6) spaces on Union Street, north side, at Stockton Street (adjacent to Washington Square).

B. Possible motion to approve six (6) spaces on Green Street, north side, at Columbus Avenue (adjacent to vacant Columbus Savings building)

C. Possible motion to approve three (3) spaces on Stockton Street, east side, at Columbus Avenue and Green Street (adjacent to vacant Columbus Savings building)

II **HEARING AND POSSIBLE MOTION TO REQUEST BOARD OF SUPERVISORS TO DESIGNATE TEMPORARY SELLING SPACES ON SLOAT BOULEVARD ADJACENT TO THE SAN FRANCISCO ZOOLOGICAL GARDENS AS PARTIAL REPLACEMENT OF TEMPORARY LOSS OF TWENTY-ONE (21) SPACES ON HYDE STREET, EAST SIDE, BEACH TO JEFFERSON STREETS, DUE TO RENOVATION OF WHARFSIDE BUILDING; DESIGNATION TO BE FOR ONE-YEAR COMMENCING WITH DISPLACEMENT OF HYDE STREET SPACES**

Continued.....

Richard Newirth
ctor of Cultural Affairs

0.75

14/99

Programs

Civic Design Review
Community Arts
& Education
Performing Arts
Public Art

Cultural Equity Grants
Suite 60

Civic Art Collection
Street Artists Licenses
Suite 70

rt Commission Gallery
401 Van Ness Avenue
415.554.6080

://thecity.sfsu.edu/sfac/
: sfac@thecity.sfsu.edu

CITY AND COUNTY
OF SAN FRANCISCO

VAN NESS AVENUE, SUITE 240 SAN FRANCISCO, CA 94102 PHONE (415) 252-2590 FAX (415) 252-2595

On February 1, 1999, the full Art Commission approved its Street Artists Program Director to investigate selling locations adjacent to the San Francisco Zoological Gardens as a priority for Commission consideration in partially replacing the temporary loss of the Hyde Street spaces. Based on investigation, the Program Director submits the following possible plans:

A. **Possible motion to approve eight (8) selling spaces on Sloat Boulevard, south side, between East (45th Avenue) and West Entrances of Zoological Gardens.**

B. **Possible motion to approve seven (7) selling spaces on Sloat Boulevard, south side, between East (45th Avenue) Entrance of Zoological Gardens and bus shelter east of East Entrance.**

C. **Possible motion to approve three (3) selling spaces on Sloat Boulevard, south side, between West Entrance of Zoological Gardens and blue curb zone.**

III **REVIEW OF HEARING PROCEDURES TO IMPLEMENT SECTION 5 OF THE STREET ARTISTS ORDINANCE**

IV **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

V **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VI **ADJOURNMENT**

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market, one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

SAN FRANCISCO ARTS COMMISSION

RICHARD NEWIRTH
ECTOR OF CULTURAL AFFAIRS

0.75

12/99
ncelled

PROGRAMS
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
PERFORMING ARTS
PUBLIC ART
CULTURAL EQUITY GRANTS
SUITE 60
CIVIC ART COLLECTION
STREET ARTISTS LICENSES
SUITE 70
COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

://THECITY.SFSU.EDU/SFAC/
SFAC@THECITY.SFSU.EDU

NOTICE

The meeting of the STREET ARTISTS PROGRAM COMMITTEE scheduled for **Wednesday, May 12, 1999** has been **cancelled.**

The next meeting of the Street Artists Program Committee is scheduled for **Wednesday, June 9, 1999, 3:00 p.m.** in the Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

May 5, 1999

DOCUMENTS DEPT.

MAY 11 1999

SAN FRANCISCO
PUBLIC LIBRARY

CITY AND COUNTY OF
SAN FRANCISCO

SAN FRANCISCO ARTS COMMISSION

RICHARD NEWIRTH
CTOR OF CULTURAL AFFAIRS

0.75

9/99

ncelled PROGRAMS

CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
PERFORMING ARTS
PUBLIC ART

CULTURAL EQUITY GRANTS
SUITE 60

CIVIC ART COLLECTION
STREET ARTISTS LICENSES
SUITE 70

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

AIL: HECITY.SFSU.EDU/SFAC/
AC@THECITY.SFSU.EDU

NOTICE

The meeting of the STREET ARTISTS PROGRAM COMMITTEE scheduled for **Wednesday, June 9, 1999** has been **cancelled.**

The next meeting of the Street Artists Program Committee is scheduled for **Wednesday, July 9, 1999, 3:00 p.m.** in the Art Commission Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

May 28, 1999

DOCUMENTS DEPT.

JUN 0 3 1999

SAN FRANCISCO
PUBLIC LIBRARY

CITY AND COUNTY OF
SAN FRANCISCO

06-03-99P12:02 RCVD

DOCUMENTS DEPT.

JUL 3 - 1999

SAN FRANCISCO
PUBLIC LIBRARY

07-03-99P01:30 RCVD

RICHARD NEWIRTH
TOR OF CULTURAL AFFAIRS

0.75

4/99

PROGRAMS

CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
PERFORMING ARTS
PUBLIC ART

ULTURAL EQUITY GRANTS
SUITE 60

CIVIC ART COLLECTION
STREET ARTISTS LICENSES
SUITE 70

COMMISSION GALLERY
01 VAN NESS AVENUE
415.554.6080

/THECITY.SFSU.EDU/SFAC/
AIL: SFAC@THECITY.SFSU.EDU

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, July 14, 1999
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
San Francisco, California

AGENDA

NOTICE: Requests to testify are accepted before the item on which the individual wishes to speak comes up for consideration. The Presiding Officer will also call for public testimony on agenda items either at the beginning of the meeting or prior on the vote on particular items. Public testimony shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I. HEARING AND POSSIBLE MOTION TO PROPOSE LEGISLATION TO BOARD OF SUPERVISORS TO LIMIT SIZE OF CANOPIES, UMBRELLAS, AND OTHER UTILITARIAN DIMENSIONS ADDED TO A STREET ARTIST DISPLAY

II. REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

III. PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

IV. ADJOURNMENT

ITY AND COUNTY OF
SAN FRANCISCO

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

SAN FRANCISCO ARTS COMMISSION

RICHARD NEWIRTH
R OF CULTURAL AFFAIRS
.75

/99

PROGRAMS
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
PERFORMING ARTS
PUBLIC ART

URAL EQUITY GRANTS
SUITE 60

IVIC ART COLLECTION
EET ARTISTS LICENSES
SUITE 70

MMISSION GALLERY
VAN NESS AVENUE
415.554.6080

CITY.SFSU.EDU/SFAC/
IL: SFTHECITY.SFSU.EDU

Y AND COUNTY OF
SAN FRANCISCO

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, August 11, 1999
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
San Francisco, California

DOCUMENTS DEPT.

AUG 0 2 1999

SAN FRANCISCO
PUBLIC LIBRARY

AGENDA

NOTICE: Requests to testify are accepted before the item on which the individual wishes to speak comes up for consideration. The Presiding Officer will also call for public testimony on agenda items either at the beginning of the meeting or prior on the vote on particular items. Public testimony shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I. HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE; HEARINGS AND POSSIBLE MOTIONS TO DENY, SUSPEND, OR REVOKE CERTIFICATES

Martin Butschek – Certificate # 3300. Alleged violations: (1) Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Sec. 2405(b) ; (2) Entering the name and certificate number of another artist onto a lottery slip and entering slip into the lottery (Ord. 41-83, Sec. 2406(e); Art Commission Lottery Rule VIII).

Gerard Pepper Cracas – Certificate # 1908. Alleged violation: Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Sec. 2405(b)).

Suong Nguyen – Certificate # 4843. Alleged violations: (1) Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Sec. 2405(b)); (2) selling while under certificate suspension (Sec. 2408).

II. HEARING AND POSSIBLE MOTION TO APPROVE OR DENY CERTIFICATE

Fernando Hechavarria – former Certificate # 4642. (On January 13, 1999 the Street Artists Program Committee found Mr. Hechavarria in violation of the street artist ordinance for offering for sale items not of his own creation and voted to not consider an application from Mr. Hechavarria for a new certificate until July, 1999 or later. Mr. Hechavarria applied July 7, 1999.)

III. REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

IV. PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

V. ADJOURNMENT

ACCESSIBILITY INFORMATION

"Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market, one-half block from the building.

9, 26, and 42 Buses--serving the area of Van Ness and Market.

Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.

For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

SAN FRANCISCO ARTS COMMISSION

RICHARD NEWIRTH
TOR OF CULTURAL AFFAIRS

PROGRAMS
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
PERFORMING ARTS
PUBLIC ART

ULTURAL EQUITY GRANTS
SUITE 60

CIVIC ART COLLECTION
STREET ARTISTS LICENSES
SUITE 70

COMMISSION GALLERY
101 VAN NESS AVENUE
415.554.6080

'/THECITY.SFSU.EDU/SFAC/
L: SFAC@THECITY.SFSU.EDU

STREET ARTISTS PROGRAM COMMITTEE

August 11, 1999

Arts Commission Conference Room, Suite 70
25 Van Ness Avenue
San Francisco, California

DOCUMENTS DEPT.
AUG 24 1999
SAN FRANCISCO
PUBLIC LIBRARY

MINUTES

Commissioners present: Rod Freebairn-Smith, Steve Ishii, Denise Roth, Dugald Stermer

Commissioners absent: Emery Rogers

Staff present: Director of Cultural Affairs Richard Newirth
Street Artists Program Director Howard Lazar

Commissioner Stermer chaired the meeting and called it to order at 3:12 p.m.

I. HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE; HEARINGS AND POSSIBLE MOTIONS TO DENY, SUSPEND, OR REVOKE CERTIFICATES

Martin Butschek – Certificate # 3300. Alleged violations: (1) Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Sec. 2405(b); (2) Entering the name and certificate number of another artist onto a lottery slip and entering slip into the lottery (Ord. 41-83, Sec. 2406(e); Arts Commission Lottery Rule VIII).

Commissioner Stermer, acknowledging a letter received from Attorney Marlin V. Ogden on behalf of Martin Butschek requesting a rescheduling of the hearing, stated that the hearing would be rescheduled for the next Committee meeting in September.

Gerard Pepper Cracas – Certificate # 1908. Alleged violation: Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Sec. 2405(b)).

Commissioner Stermer, acknowledging a letter received from Attorney Marlin V. Ogden on behalf of Gerard Pepper Cracas requesting a

CITY AND COUNTY OF
SAN FRANCISCO

rescheduling of the hearing, stated that the hearing would be rescheduled for the next Committee meeting in September.

Suong Nguyen – Certificate # 4843. Alleged violations: (1) Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Sec. 2405(b)); (2) Selling while under certificate suspension (Sec. 2408).

Ms. Nguyen was not present.

Program Director Lazar summarized the Committee's actions taken in the previous hearing with Ms. Nguyen on March 10, 1999: After acknowledging the evidence of Ms. Nguyen's selling in illegal locations in 4 incidents (1 incident for each of the preceding 4 years, with 2 of the incidents occurring in consecutive winter holiday seasons) and her receiving 3 warnings, the Committee had found that Ms. Nguyen's selling activity was "so chronic" that the Committee suspended her certificate for 3 months and voted that "any future violation of" her selling in an illegal location would "be grounds for consideration of suspension of certificate for a minimum of 1 year or revocation."

Just before her 3-month suspension period was due to terminate on June 30th, Ms. Nguyen was photographed by Police Officer Stewart Ng on June 18th allegedly selling in an illegal location again – and, more seriously, selling while under suspension which in itself could merit a 2-month suspension under the Arts Commission's standard penalties for street artist violations. The photograph taken by Officer Ng was submitted as evidence.

Officer Ng testified that on June 18th, 12:40 p.m., he was assigned to the Financial District for a major demonstration called "Take Back Our Streets"; he was going to various locations where the demonstrators were heading when he observed Ms. Nguyen, whom he had cited during the previous winter holiday season, selling on Drumm Street, west side, south of Sacramento Street. Officer Ng, having worked the street artist detail for the Arts Commission for several years, knew that Ms. Nguyen was not in a location designated by the Board of Supervisors for street artists. He identified for the Commissioners the submitted photograph

as the Polaroid photo he took of Ms. Nguyen. He stated that the vehicle shown in the photo as parked behind Ms. Nguyen's display was the same vehicle, a Toyota pickup truck, parked behind her display which he photographed last December. (The Commissioners observed the vehicle in the recent and previous photos.) The Officer went on to say that Ms. Nguyen's table display was "open for business" and displaying jewelry.

In response to questions from the Program Director, Officer Ng stated that Ms. Nguyen had customers in front of her and was waiting on them; "she was conducting business". He added that he observed her in this activity for "approximately five minutes."

Commissioner Stermer acknowledged a note in Ms. Nguyen's file which stated that on July 28th Ms. Nguyen telephoned the office and stated that she would not appear at the August 11th hearing and that she preferred to relinquish her certificate because she no longer had a use for it. With regard to this, the Program Director stated that Ms. Nguyen had come to the office (on July 8th) to renew her certificate, whereupon the Program Director informed her that there was a charge against her for having sold in an illegal location and during her certificate's suspension, that she would be notified of a hearing in August, and that if she chose to renew her certificate, she might be restricted to its use for only a month or a month and a half due to the possibility of its being suspended or revoked. Because Ms. Nguyen told him that she needed to sell, he informed her that she would have to renew the certificate if she intended to sell. The conversation was witnessed by the Program's Certification Clerk, Antoinette Worthy, who had referred Ms. Nguyen to the Program Director because she had not been certain as to whether she should renew Ms. Nguyen's certificate. Ms. Nguyen chose to renew.

Commissioner Stermer asked the Program Director if, in his experience with her, she comprehended the regulations. The Program Director said that he felt she did and that, to the Commissioners at her last hearing, she had responded several times that she understood why she was being suspended and that she would not be able to sell for a duration of time.

Director of Cultural Affairs Newirth stated that he remembered the

Commissioners, at Ms. Nguyen's last hearing, commenting that her violations were so numerous that the Commissioners could not believe that she did not understand the rules even if she tried to convey the impression that she did not understand.

Program Director Lazar stated that Ms. Nguyen had also received 3 written warnings from the Program, as well as written citations from the Police officers who had cited her. The current violation was the *5th* such incident for which she was cited.

Commissioner Freebairn-Smith moved that Suong Nguyen be found in violation of the street artist ordinance by selling in a location not designated by the Board of Supervisors, 5th incident (Section 2405(b)), and selling while under certificate suspension (Sec. 2408); that Ms. Nguyen's certificate be suspended for 12 months commencing September 1, 1999; and that, should her certificate not be renewed prior to Ms. Nguyen's serving the entire suspension period, the balance of the suspension be served upon issuance of a new certificate. The motion was seconded by Commissioner Ishii and unanimously approved.

II. HEARING AND POSSIBLE MOTION TO APPROVE OR DENY CERTIFICATE

Fernando Hechavarria - former Certificate # 4642.

The Commissioners reviewed that on January 13, 1999 the Committee had found Mr. Hechavarria in violation of the street artist ordinance by offering for sale items not of his own creation – commercially manufactured silver rings each imprinted on the inside of the band with the word "MEXICO" – and, because his certificate had expired, the Committee had voted to not consider an application from Mr. Hechavarria for a new certificate until July, 1999 or later. Mr. Hechavarria applied for a new certificate on July 7, 1999.

The Program Director clarified that the Arts Commission in 1992 had revoked Mr. Hechavarria's first certificate, one of the findings being that

he had sold jewelry items not of his own creation. Then, in 1994, upon his request for a new certificate, the Program Committee heard evidence of incidents in which Mr. Hechavarria sold items not of his own creation; nevertheless, the Commission voted to approve his request and, in so doing, strongly warned him that if he violated any provision of the ordinance in the future, it would be grounds for a final revocation. What prevented the Commissioners at the January, 1999 hearing from revoking his certificate was that he had no certificate to revoke: it had expired, and, because of the Commission's Sec. 5 procedures pertinent to the severity of his offense (selling work he did not make), it could not be renewed without approval by the Program Committee. Rather than authorizing a renewal, the Committee in January chose to not consider a request from him for a new certificate until at least six months passed.

In response to a question from Commissioner Ishii, Mr. Hechavarria stated that the crafts he intended to sell were the items he made himself for which he had been authorized by the Arts Commission to sell.

Commissioner Stermer confirmed from him that the items he intended to sell would not be made in Mexico.

Commissioner Roth questioned Mr. Hechavarria about the 1994 visit by the Commission's Advisory Committee of Street Artists and Craftsmen Examiners to his studio to watch him make his rings; the Commissioner ascertained that he understood, after discussions with the Advisory Committee, what items he was allowed to sell and what items he was not allowed to sell.

In response to questions by Commissioners Roth and Stermer, Mr. Hechavarria confirmed that he understood what he was allowed to sell and not allowed to sell and the reason why he had been brought to hearing before the Program Committee in January.

Program Director Lazar clarified that Mr. Hechavarria had been authorized to sell fabricated metal rings – not cast rings – and beadcraft, all of which had to be of his own creation.

Commissioner Roth moved that Fernando Hechavarria be approved for issuance of a certificate; the motion was seconded by Commissioner Ishii and unanimously approved.

The Program Director ascertained that Mr. Hechavarria understood he would not be able to receive the certificate until after the meeting of the full Commission on September 13th.

III. REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

The Commissioners reviewed the following major accomplishments of the Street Artists Program for 1998 – 99:

- The Program Director received the Public Managerial Excellence Award's Certificate of Merit "in recognition of managerial excellence and achievement by the Municipal Fiscal Advisory Committee to the Mayor."

- The Program Director ascertained the Program's fund balance of $150,000 (at the start of 1998 – 99) of accumulated surplus license fees which had been missing for 4 years when the City went to a new computerized accounting system; in addition, $30,000 of this amount, was returned to the fund upon discovery of an accounting error in the Controller's Office.

- The Program received Board of Supervisors approval of an ordinance establishing the Program's fund as an interest-bearing fund, the interest to be earned on *any* accumulated balance.

- For the 17th consecutive year, the Program received Board of Supervisors approval of additional temporary selling spaces for street artists during the winter holiday season (52 spaces in the Downtown area, 7 spaces at Harvey Milk Plaza).

- The Program received Board of Supervisors designation of

temporary selling spaces on Grant Avenue to compensate for a loss of spaces during construction of the Levi store on Stockton Street.

- The Program received Board of Supervisors approval of 15 temporary spaces in North Beach and 11 temporary spaces at Fisherman's Wharf to compensate for a projected loss of 21 spaces at the Wharf during renovation of the Haslett Warehouse.

- The Arts Commission adopted an amended agreement with the San Francisco Film and Video Arts Commission continuing to require film production companies to compensate street artists whose businesses are adversely affected during film production.

- The Program hired off-duty Police officers during the winter holiday season in the Downtown area who issued a total of 44 citations to unlicensed vendors and confiscated unlicensed commercially manufactured merchandise (wristwatches, jewelry, sweaters, handbags, scarves, etc.) in 35 incidents – the merchandise loaded into Police vans and transported to Central Station.

- The number of street artist certificate-holders was maintained at 400.

- The Program scheduled 248 applicants for examination of their wares by the Advisory Committee of Street Artists and Craftsmen Examiners; of these, 149 were approved to start their own businesses.

At Director Newirth's request, the Program Director informed the Commissioners of the background history and issues behind last month's request by Street Artists Bill and Bob Clark to the Arts Commission to ask the Board of Supervisors for a hearing on the street artist fees of prior years deposited into the General Fund. Last month the Program Committee had agreed to calendar the issue for the September meeting in order to receive possible evidence to support a request for a return of the money to the Program's fund and to consider asking the Board of Supervisors for a hearing on the matter.

The Program Director summed up his perception of the Clarks' request: the Board of Supervisors to consider directing the Controller to (a) transfer from the General Fund approximately $200,000 in street artist fees collected from 1972 – 80 to the Program's special fund; (b) apply interest (at the rate it was during 1972 – 80) to this amount; and (3) apply interest to the surplus fees that have accrued in the Program's fund since the fund's establishment in 1980 – 81.

Director Newirth clarified that the surplus fees have just started earning interest due to the recent passage of the ordinance making the Program's fund an interest-bearing fund.

In response to a question by Commissioner Stermer, Program Director Lazar reported that the last time the street artist fee was raised was 8 years ago. The surplus fees have helped to defray the Program's expenses and prevent a further fee raise; but last year's fee revenue shortfall and the current year's projected shortfall reveal the possibility of the surplus being absorbed at a rapid rate. The Program Director went on to say that he had figures to show that in 1972 – 80 the amounts of appropriation given by the Board of Supervisors to the Arts Commission to manage and enforce the street artist ordinance totaled less than a third of the total amount of street artist fee revenue deposited into the General Fund.

Mr. Lazar also stated that the Program not only retained records of the deposits of 1972 – 80 but also had copies of letters from the Arts Commission Directors of that era and letters from the heads of the major merchant organizations in the city urging the Board of Supervisors to give the Arts Commission its own special fund (of certificate fees) whereby the Commission could adequately enforce the street artist ordinance. In response, the Supervisors in 1976 and 1979 set up a fund limiting the Commission's usage of its fees and mandating the rest of the fee collection to revert to the General Fund.

Director Newirth advised that the Commissioners obtain a clear legal opinion from the City Attorney on the Commission's role in this matter. He also commented that a portion of the issue was a philosophical

debate and not so much a legal debate, that a request from the Program to return the funds would be based from a moral and philosophical realm; but if the request did not also have a sound legal base, he doubted whether it would be seriously considered.

Mr. Newirth went on to say that all funds in the City earn interest; very rarely is it applied to a special fund unless legislation provides for the fund to bear interest. That was why legislation was just passed for the Street Artists Program's fund to bear interest. To request interest on the fund's principal for years past could possibly be considered as requesting after the fact. Finally, with regard to possibly pursuing the return of previous revenue in order to further defer a fee increase, he stated that each year the Commission has to report to the Controller's office its current and projected expenses and revenues and to determine a fee that will cover the expenses, regardless of whether the Program had a surplus or a deficit in the previous year.

Commissioner Stermer stated that he did not wish to hold a hearing on the issue until the City Attorney's office thoroughly researched it. It would be a waste of time to hold such a hearing if the City Attorney were to advise that there were absolutely no grounds for submitting the request to the Board of Supervisors. On the other hand, if a legal opinion were to state that there *are* grounds to request the return of the money, then the Commission could approach a Supervisor to carry the request to the Board.

Commissioner Roth stated that she would not be surprised if there was another City agency which has had a similar problem for which a legal opinion would have been written. She also asked that the Clarks submit their arguments to the Program Committee in writing for conveyance with the Program Director's research to the City Attorney.

Commissioner Roth moved to defer the hearing on the request to such time as an opinion is received from the City Attorney; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

The Commissioners asked that the Clarks be requested to furnish the

Program Director with a letter stating their arguments and any accompanying copies of legal material they feel is relevant to the issue for forwarding to the City Attorney.

*

On another matter, the Program Director reported that some observers have expressed that the Arts Commission did not receive a fair hearing at the Board of Appeals in the recent appeal of *Harold Brennan vs. Arts Commission* because the Board overruled the Commission by determining that the applicant's items constituted "art" in the context of museum art, that the applicant's items would be "good for San Francisco" (as expressed by one Board member), and for "humanitarian" (the word used by another Board member) reasons. Such grounds - it was expressed to the Program Director - were not relevant to the voter-approved street artist ordinance which provides *no* definition of "art," makes no provision for a certificate to be issued on the basis of whether an applicant's items may be considered "art," makes no provision for a certificate to be issued on the basis of whether the items will benefit San Francisco, and makes no provision for a certificate to be issued for a "humanitarian" reason. The ordinance provides, simply, that an applicant shall receive a certificate if the applicant's item is verified as a "handcrafted item" which the ordinance defines as "an item predominantly created or significantly altered in form by the street artist."

Commissioners Roth and Stermer, who had spoken at the appeal, related the actions of the Board. Commissioner Stermer stated that one of the members made an argument of aesthetics in favor of the appellant, and that, regardless of whether the Board members were qualified to make such arguments, the Arts Commissioners were not qualified to accept or reject any street artist applicant based on aesthetics. Nevertheless, it was evident the Board members felt they were qualified to overrule the Arts Commission on aesthetics grounds – a situation which, he said, seemed wrong.

Director Newirth questioned how the Board could consider itself to have

the expertise to make a better decision than a body who was specifically appointed to deliberate in street artist matters and who spent much more time than the Board of Appeals in viewing the applicant's items.

Commissioner Stermer stated that the problem was not only that the Board members did not have the expertise and did not research the issue but that they ignored the memoranda sent to them which stated the ground rules that had to be followed by *both* the Arts Commission and the Board of Appeals. The Board members – with the exception of one who voted to not overrule – chose to ignore the reasons why the Arts Commission may accept or reject and instead chose to accept the applicant for their own reasons which had nothing to do with the ground rules.

Director Nowirth stated that theoretically the grounds for an appeal is that there was something wrong in the review process; if an appeals body considers anything other than a flaw in the process, it runs astray of the subject. Commissioner Stermer agreed and stated that the appellant, Mr. Brennan, had received not 1 but 5 fair hearings with the Arts Commission.

Program Director Lazar mentioned that the Board members also ignored the fact that the appellant was selling his items on the street without a license – a fact that was reported to the Board several times both verbally and in writing. This unlicensed activity alone, according to the street artist ordinance, was grounds to deny any applicant a certificate.

Commissioner Stermer expressed frustration in being an artist who did not permit himself at the Board hearing to discuss "art" with respect to the appellant's items, as this, he knew, would have given the Board grounds to overrule the Commission; yet the Board members, who were not artists, kept speaking forth the issue of "art" as one of the reasons to overrule the Commission.

The Commissioners acknowledged that the one Board member (Commissioner Arnold Chin) who had voted to *not* overrule the Commission had expressed his view that the Arts Commission had acted

in accord with the limits of the street artist ordinance and he stated, ironically, that he himself was married to an artist.

Commissioner Roth stated that it had been apparent that, with the exception of Commissioner Chin, the Board members had not read the Program Director's letters about the case that had been sent to them. When Director Newirth had told the Board that the appellant could qualify to continue his activities under a charitable solicitors permit, the Board had asked what such a permit was and which department issued it – all of which had been answered in the letters.

IV. PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR SELLING SPACES

There was no public comment.

There being no further business, the meeting adjourned at 4:42 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Street Artists Program Director

DOCUMENTS DEPT.

SEP 0 3 1999

SAN FRANCISCO
PUBLIC LIBRARY

S F
A C

SAN FRANCISCO ARTS COMMISSION

RICHARD NEWIRTH
OR OF CULTURAL AFFAIRS

PROGRAMS
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
PERFORMING ARTS
PUBLIC ART

LTURAL EQUITY GRANTS
SUITE 60

CIVIC ART COLLECTION
TREET ARTISTS LICENSES
SUITE 70

OMMISSION GALLERY
)1 VAN NESS AVENUE
415.554.6080

ECITY.SFSU.EDU/SFAC/
AC@THECITY.SFSU.EDU

CITY AND COUNTY OF
SAN FRANCISCO

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, September 8, 1999
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
San Francisco, California

AGENDA

NOTICE: Requests to testify are accepted before the item on which the individual wishes to speak comes up for consideration. The Presiding Officer will also call for public testimony on agenda items either at the beginning of the meeting or prior on the vote on particular items. Public testimony shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I. HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE; HEARINGS AND POSSIBLE MOTIONS TO DENY, SUSPEND, OR REVOKE CERTIFICATES

Martin Butschek – Certificate # 3300. Alleged violations: (1) Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Sec. 2405(b) ; (2) Entering the name and certificate number of another artist onto a lottery slip and entering slip into the lottery (Ord. 41-83, Sec. 2406(e); Art Commission Lottery Rule VIII). (hearing rescheduled from 8/11/99)

Gerard Pepper Cracas – Certificate # 1908. Alleged violation: Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Sec. 2405(b)).
(hearing rescheduled from 8/11/99)

II. HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF TEMPORARY WINTER HOLIDAY SELLING SPACES FOR STREET ARTISTS IN THE DOWNTOWN AREA AND AT HARVEY MILK PLAZA, FOR NOVEMBER 15, 1999 – JANUARY 15, 2000

The Program Director proposes the **same 52 temporary selling spaces in the Downtown area** as had been designated for the last 6 winter holiday seasons, plus **4 former temporary spaces** ("Z-32", "Z-33", "Z-34", "Z-35") on Sansome Street, west side, at Sutter Street

(adjacent to BART wall and Citicorp), and **4 new temporary spaces** on the northwest corner of Post and Montgomery Streets (adjacent to Wells Fargo Bank); and the **same 7 temporary selling spaces at Harvey Milk Plaza** as had been approved the last 4 winter holiday seasons and the winter holiday season of 1992-93; all temporary spaces to be for the **same time period** as had been approved for the last 9 years.

III. **HEARING AND POSSIBLE MOTION TO APPROVE THE ELIMINATION OF LIMITED EDITION NUMBERS PROVIDED BY CURRENT SCREENING CRITERIA FOR ART AND CRAFT ITEMS REPRODUCED BY THIRD PARTIES**

IV. **HEARING AND POSSIBLE MOTION TO APPROVE RECOMMENDATION (JULY 29, 1999) OF ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS AMENDING SCREENING CRITERIA BY REQUIRING ARTISTS TO ATTACH TO THE BACK OF EACH PRINT, CREATED BY THE ARTIST OR REPRODUCED BY A THIRD PARTY, AN "EDITION STATEMENT" CONTAINING NAME OF ARTIST AND TYPE (MEDIUM) OF PRINT; OPTIONAL STATEMENT SPECIFYING MEDIUM OF ORIGINAL ARTWORK, YEAR OF ORIGINAL ARTWORK, AND YEAR OF PRINT**

V. **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

VI. **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VII. **ADJOURNMENT**

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

DOCUMENTS DEPT.

SEP 2 2 1999

SAN FRANCISCO
PUBLIC LIBRARY

S F
A C

SAN FRANCISCO ARTS COMMISSION

RICHARD NEWIRTH
OR OF CULTURAL AFFAIRS

PROGRAMS
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
PERFORMING ARTS
PUBLIC ART

TURAL EQUITY GRANTS
SUITE 60

CIVIC ART COLLECTION
TREET ARTISTS LICENSES
SUITE 70

OMMISSION GALLERY
1 VAN NESS AVENUE
415.554.6080

THECITY.SFSU.EDU/SFAC/
SFAC@THECITY.SFSU.EDU

STREET ARTISTS PROGRAM COMMITTEE

September 8, 1999

Arts Commission Conference Room, Suite 70
25 Van Ness Avenue
San Francisco, California

MINUTES

Commissioners present: Emery Rogers, Rod Freebairn-Smith, Steve Ishii, Denise Roth, Dugald Stermer

Commissioners absent: None

Staff present: Director of Cultural Affairs Richard Newirth
Street Artists Program Director Howard Lazar

Commissioner Stermer called the meeting to order at 3:09 p.m. and chaired the meeting until Commissioner Rogers' arrival at 3:19 p.m., whereupon Commissioner Rogers chaired the remainder of the meeting.

Items III and IV were taken out of order of the agenda and heard simultaneously:

III. HEARING AND POSSIBLE MOTION TO APPROVE THE ELIMINATION OF LIMITED EDITION NUMBERS PROVIDED BY CURRENT SCREENING CRITERIA FOR ART AND CRAFT ITEMS REPRODUCED BY THIRD PARTIES

IV. HEARING AND POSSIBLE MOTION TO APPROVE RECOMMENDATION (July 29, 1999) OF ADVISORY COMMITTEE OF STREET ARTISTS AND CRAFTSMEN EXAMINERS AMENDING SCREENING CRITERIA BY REQUIRING ARTISTS TO ATTACH TO THE BACK OF EACH PRINT, CREATED BY THE ARTIST OR REPRODUCED BY A THIRD PARTY, AN "EDITION STATEMENT" CONTAINING NAME OF ARTIST AND TYPE (MEDIUM) OF PRINT; OPTIONAL STATEMENT SPECIFYING MEDIUM OF ORIGINAL ARTWORK, YEAR OF ORIGINAL ARTWORK, AND YEAR OF PRINT

CITY AND COUNTY OF
SAN FRANCISCO

The Commissioners reviewed the history of hearings on these issues conducted by both the Program Committee and the Advisory Committee of Street Artists and Craftsmen Examiners. At the March 10, 1999 Program Committee meeting, the Commissioners had expressed a reluctance to supporting a recommendation of limited editions on third-party produced prints of an artist's original work. Commissioner Rogers had said he would entertain a motion to eliminate the edition limitations in the existing screening criteria; prior to doing so, however, the Program Committee voted to direct the Advisory Committee to conduct another hearing on the matter.

Program Director Lazar reported that the Advisory Committee met to consider the issue; its members expressed that they had thoroughly discussed the issue with the street artists in two previous hearings, and chose to re-submit it to the Program Committee without endorsement of, or protest against, a possible motion to eliminate the limited edition criteria. The Advisory Committee went on to recommend that the Commission require the artists to provide an "edition statement" attached to the back of each print, specifying simply the name of the artist and the type or medium of the print. The Advisory Committee also recommended that the artists be urged, but not required, to include a statement of the medium of the original artwork and the year the print is made.

Street Artist Sharon MacDougall, who sells prints of her paintings, endorsed the recommendation for a simple statement expressing the type of print the public would be purchasing; she also favored having this expressed in a sign on the artist's table.

Street Artist Matt Summers , who sells photographs, objected to the Advisory Committee's suggestion that an artist label the date of an item's conception, as this could be detrimental to a photograph's essence of timeliness. He also objected to any permanent attachment of an edition statement to the back of a print, as this could reduce the print's ultimate antique value.

Commissioner Stermer stated that it would be left up to the artist to

determine how the edition statement would be displayed with the print.

Street Artist Mark Monsarrat, who sells prints of his paintings and drawings, stated that, rather than require the statement to be enclosed with each print, it should be sufficient to have a sign on the artist's display.

Street Artist Barbro Haglund, who sells photographs, stated that she felt the Advisory Committee's recommendation was a reasonable solution to the issue of whether or not limited editions should be retained in the screening criteria.

Commissioner Roth stated that, given the minimum amount of information that would be required, she did not see any difficulty for an artist to attach the statement to each print.

Director Newirth stated that, while some artists were objecting to having to attach an edition statement, the artists had to realize that such labeling on each print would be linked to the elimination of the criteria for limited editions. He added that he felt that a requirement for a sign in lieu of the edition statement for each print would be more problematic.

In response to a question by Commissioner Freebairn-Smith, Program Director Lazar stated that he had heard from many artists on the street that they favored a requirement for an attached statement to each print because some artists were giving a half truth by telling the public that their prints were their "original work" and not that they were reproductions of their original work, and this has resulted in the relatively low prices of laser-copy prints undermining the sales of those artists who sell originals. This has also happened in cases whereby an artist will sell a fabricated metal ring for $5, tell the customer that the ring is "sterling silver," and the same customer will then criticize another artist for charging too much for *his* rings which, in truth, are sterling.

The Program Director expressed his view that the Advisory Committee's recommendation for "truth in advertising" would not only deter such situations and the ill will among artists arising therefrom, but it would also deter criticism of the Arts Commission from customers discovering that the quality of the item they purchased was not what they had been led to believe. Because there is a big difference between a laser-copied print, an offset lithograph, and a hand-pulled monoprint, the prices of these vary accordingly; and the Street Artists Program should do what it can to help the public understand why the prices vary.

Commissioner Roth moved to approve the elimination of the limited edition numbers provided by the current screening criteria for art and craft items reproduced by third parties; the motion was seconded by Commissioner Rogers and unanimously approved.

Commissioner Roth moved to approve the recommendation of the Advisory Committee of Street Artists and Craftsmen Examiners amending the screening criteria by requiring street artists to attach to the back of each print, created by the artist or reproduced by a third party, an "edition statement" containing the name of the artist and the type (medium) of the print; the motion was seconded by Commissioner Ishii and unanimously approved.

Chairman Rogers requested that the Committee take up Item I of the agenda:

I. HEARINGS ON ALLEGED VIOLATIONS OF STREET ARTIST ORDINANCE; HEARINGS AND POSSIBLE MOTIONS TO DENY, SUSPEND, OR REVOKE CERTIFICATES

Martin Butschek - Certificate # 3300. Alleged violations: (1) Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Sec. 2405(b); (2) Entering the name and certificate number of another artist onto a lottery slip and entering slip into the lottery (Ord. 41-83, Sec. 2406(e); Arts Commission Lottery Rule VIII). (hearing rescheduled from 8/11/99)

Program Director Lazar submitted as evidence a copy of the Police citation issued by Officer Stewart Ng to street artist Martin Butschek for selling in an illegal location on Friday, July 2, 1999, at 7:21 p.m., on Jefferson Street, west of Jones Street.

Officer Ng testified that on the day of the incident he was not detailed to patrol the Street Artists Program but to post notice of the 4th of July weekend celebration at Fisherman's Wharf. When he was coming down Jefferson Street, about 70 feet past Jones Street, he observed street artists Martin Butschek and Gerard Pepper Cracas "with their display up" in a location that was not approved by the Board of Supervisors for street artists. The officer wrote "307 Jefferson" on the citation to reflect the location and number of the adjacent parking meter.

Officer Ng submitted to the Commissioners photographs of the location, taken after the incident, and identified the location of where he had found the two artists, the adjacent parking meter, and a view of Jefferson Street as observed westbound from Jones.

The officer related that, when citing the two, Mr. Butschek told him that he had permission from The Anchorage Shopping Center to conduct business in the location, whereupon the officer advised him that the location – a public sidewalk fronting The Anchorage – was not part of The Anchorage property.

In response to questions by Program Director Lazar, Officer Ng clarified that the two artists were working off of one display, that the display was on the public sidewalk which is under the control of the Police Department on behalf of the Port Commission, and that the artists had no permission from either authority to be there.

At the request of the Chair, the Program Director summarized the history of the past 10 years of Mr. Butschek's selling in illegal locations. The present citation marked the 10th time that he had been officially observed selling in an illegal location. The history included his serving 3 suspensions of certificate for having committed the same

type of violation. His 2nd violation caused the Arts Commission to suspend his certificate for 3 weeks from November 23 – December 13, 1988, an action which was appealed to, and upheld by, the Board of Appeals. His 7th violation caused the Commission to suspend his certificate for 3 weeks for the summer season of 1994, an action which was also appealed to the Board of Appeals who, in this instance, upheld the suspension's duration but mitigated it by directing it to occur in an inconsequential selling period, the month of March. His 9th violation - occurring only 11 months after his serving his previous suspension – caused the Commission to suspend his certificate for 6 weeks for the critical selling months of May and June, 1995, an action which was not appealed.

According to the history, Mr. Butschek had received 4 warnings from 2 Street Art Inspectors and the Street Artists Program Director. Nine out of his 10 violations occurred on Jefferson Street which is under the authority of the Port Commission who, in 1995, insisted that all street artists who sell on Jefferson Street sign an "Acknowledgment of Receipt of Port Commission Conditions of Use of Street Artist Selling Spaces on Port Property" in order to promise to "comply with all applicable laws, rules and regulations of the Port governing use of street artist spaces on Port property." Mr. Butschek signed such a statement on July 14, 1995, after which he continued to violate up to the present incident.

Three and a half years after signing the Port's statement, Mr. Butschek made a *2nd* promise to comply with the rules. This was after he was observed for the 2nd time committing a different violation – exceeding the display size regulations – and for this he received a letter from the Program Director (after first receiving a written warning) that stated his certificate would not be renewed unless he met with the Program Director to discuss all street artist regulations and promised in writing to comply. He signed such a statement to the Arts Commission promising "that from now on he will abide by all of the regulations of the street artist ordinance ..." and that "he fully understands the provisions of the street artist ordinance pertinent to his certificate and conduct as a street artist."

Just *4 ½ months* later, on July 2, 1999, he was observed by Officer Ng selling in an illegal location for the *10th* recorded time.

Mr. Butschek stated that he was a street artist for the past 26 years and had a long history with the Street Artists Program. He referred the Commissioners to Page 185 of the Program's handbook, the "bluebook", which reflects a resolution taken by the Arts Commission on April 7, 1987, providing for a "TIME LIMIT OF THREE YEARS ON COUNTING AN ARTIST'S VIOLATIONS OF SECTION 2405, ORD. 41-83." He expressed that he felt he was being discredited by the Program Director's bringing up the 10-year history of previous violations. Also, he had served suspensions for these violations.

Mr. Butschek went on to say that he and Gerard Pepper Cracas had received permission from The Anchorage to sell; they had sought this because, during summer, there were not enough locations at the Wharf to accommodate the artists. He submitted a letter from Kevin P. Brown, Marketing Director, The Anchorage, which stated: "Martin Butshek, Michael Rosenthol and Gerard Pepper Cracas have my permission to set up their cartoon booths at The Anchorage Shopping Center on Fisherman's Wharf. ..." Mr. Butschek said that it was his impression that he and Cracas could sell anywhere on The Anchorage property.

Mr. Butschek submitted photos of the sidewalk in question and stated that the sidewalk was different in "look" from other sidewalks of The Anchorage. He stated that Officer Ng had cited them also in 1995, and that he, Butschek, questioned the reason for the officer's citing them in the current incident when the officer ignored 9 other artists selling illegally in the next block on Jefferson Street. He added that the officer "had a beef" with him, and that, despite the Program Director's characterization of Butschek and Cracas as continuous violators, no officer other than Ng had cited them in the past 4 years.

Commissioner Rogers stated that, while he himself was familiar with The Anchorage, having done its landscape architecture, it was hard to discern the difference between private and public property at the

shopping center. If Butschek had been selling on private property, Officer Ng would have been out of line; but the officer, Commissioner Rogers stated, was very cognizant of The Anchorage's private property boundaries and it was clear in the officer's mind that Butschek was on the public sidewalk. The Commissioner added that he felt Mr. Butschek had been "quite well aware of where" he was. He asked Mr. Butschek to state whether he was on the public sidewalk or on The Anchorage property when he was cited.

Mr. Butschek replied that he was not aware that it was not The Anchorage property.

The Commissioner concluded that it was "hard to believe that somebody who has worked at the Wharf as long as" Butschek had "wouldn't know whether you were on the sidewalk or on Anchorage property."

In response to a question by Commissioner Rogers, Officer Ng stated that it was easy to discern the difference because the line of the building is the property line.

Commissioner Rogers stated that he considered Officer Ng to be a "very fair-minded person" and, if the officer felt that Butschek was confused about where he was, he would have asked Butschek to either move onto The Anchorage property or pack up and leave. Instead, he chose to cite him; and this was an indication that it was very clear to the officer that Butschek knew he was on public property,

In response to a another question by Commissioner Rogers, Officer Ng said he knew that Butschek and Cracas had permission to be on The Anchorage property; they *had been* on The Anchorage property; they knew where it was; and they sold inside the mall. In his discussion with them, he explained where the property line was, and "they were well aware they were on City property." He added that, after citing them on July 2nd, they were observed selling in the same location on July 4th.

Mr. Butschek responded that every July 4th for the past 3 years everyone sells on the street itself due to the overcrowding of the sidewalk.

In response to a question by Commissioner Roth, Mr. Butschek said he had been selling in The Anchorage for 2 years. The Commissioner then noted that, after selling in The Anchorage for 2 years, Mr. Butschek had stated that he had not known its property line.

In response to a question by Commissioner Rogers, Mr. Butschek stated that he was a "funsketcher." The Commissioner noted that a special sidewalk had been reserved by the Program for "funsketchers" and portrait artists despite the summertime pressure for spaces for all artists.

Commissioner Freebairn-Smith ascertained from the Program Director that there are roughly 90 viable selling spaces at the Wharf and asked rhetorically, "How many other street artists are tempted on a great day at the Wharf ... to sell illegally?" The Commissioner concluded that a great number of artists restrained themselves from doing so.

Commissioner Stermer stated that "just because 500 people run red lights," this gives no excuse for the 501st who gets caught and asks to be let off. The issue was whether Mr. Butschek knew he was on public property. Commissioner Stermer concluded that he was convinced that Butschek did know, and he even sold in the same location *2 days* later.

Mr. Butschek told the Commissioners that, according to the Program's "bluebook," his current offense should be considered as the 1st offense in a 3-year period "and the book says that the rest should be forgotten."

Program Director Lazar countered this by questioning whether the Department of Motor Vehicles would ignore the previous red light-running history of a driver who resumes running red lights. He called Mr. Butschek's pattern of violation "a blatant situation." He further reiterated that Butschek had signed statements promising to obey all the regulations, one of the statements being for the Port Commission;

and the artists and the Arts Commissioners were all well aware of the tenuous existence of the spaces that were granted by the Port. The Program Director questioned how a person could sign 2 statements that he understood all the rules and then, 4 ½ months after signing the last statement, deliberately break a rule – in fact, the same rule he had broken 9 times before and for which he had served 3 suspensions. While the violator could point to "the letter of the law" in observing the provision for a 3-year period for a violation, the 10-year history of the same violation should not be forgotten.

The Commissioners heard the 2nd charge against Mr. Butschek. The Program Director outlined an event at the street artist lottery whereby Mr. Butschek, on July 20, 1999, allegedly entered the name of another artist, his son Michael Rosenthal, into the lottery without the artist being present. According to the report received, none of the street artist lottery helpers filled out the lottery slip for the individual. The artist who ran the lottery, Robert Siu, prevented the slip from being used to obtain a space.

In response to a question by Commissioner Stermer, the Program Director stated that he had no record of Mr. Butschek's having done this before.

The Commissioners acknowledged that, through the years, there were cases of artists allowed to enter into the lottery the names of other artists (usually family unit members) who could not physically participate due to medical reasons, and this had been allowed when the individuals had previously submitted medical documentation to the Program Director who, on their behalf, requested the Lottery Committee to make the allowance.

Mr. Butschek stated that his son, Michael Rosenthal, drove up to the lottery in his car. Prior to this, Mr. Rosenthal had suffered an automobile accident which had put him in a hospital. Mr. Butschek submitted a copy of a Police report regarding the accident. Mr. Butschek went on to say that on Beach Street (where the lottery is held) many artists double-park and gesticulate to the lottery workers

that they are present so that the workers can put their names in the lottery. On the day of the lottery incident, Mr. Butschek was concerned for his son's safety and did not want him to double-park and risk being rear-ended. Michael, he said, wrote his name on the slip for entry into the lottery. Mr. Butschek added that no violation of the lottery occurred.

Commissioners Rogers and Stermer observed that no violation committed by *Michael Rosenthal* had occurred because the slip was caught before it could be used to obtain a space.

Street Artist Robert Siu testified that he was the lottery worker on the day of the incident, that he saw Mr. Butschek "writing hastily" on a slip in the pad of slips, and that when he retrieved the pad he saw the last slip which bore Michael Rosenthal's name. He questioned Butschek about whether his son was present; Butschek told him that he had gone to park his car. Mr. Siu told the Commissioners that he did not see Rosenthal at the lottery. Rosenthal himself, he said, could have honked his car horn to tell the lottery workers he was present and intended to be in the lottery; but this had not occurred. After the lottery, he said, Butschek "threatened him" that if he sold illegally, Butschek would report him. Other artists heard this and encouraged Siu to call the Program Director.

The Commissioners reviewed the evidence of 2 lottery number-pull out sheets which listed Rosenthal's certificate as having been entered into the lottery and pulled for ultimate use in obtaining a space.

Program Director Lazar commended Mr. Siu for doing what is expected of any lottery worker in a similar situation: preventing a violation of the lottery procedure and coming forward to testify.

Mr. Butschek stated that Siu and he "have a history of personal problems." He said that Siu's intention was not to tell the truth but to make a problem for him at this hearing. Butschek himself has submitted a complaint to the Program Director of Siu's selling illegally and "using his girlfriend's number to obtain a selling space." Butschek

presented lottery slips bearing Rosenthal's name and number which, he said, Rosenthal wrote himself to enter into the lottery that day.

Commissioner Rogers observed that Rosenthal's accident occurred on March 23rd while the lottery incident occurred four months later on July 20th.

Mr. Butschek reiterated that, on the day of the lottery, he was concerned about his son's safety and asked him to park the car rather than risk another accident.

Commissioner Stermer commented that, if the accident had been serious enough to affect Rosenthal's ability to participate in the lottery, it would have been a simple matter to have informed the Program Director and obtained an allowance for Butschek to enter his son's name into the lottery. The Commissioner went on to say that to bring up a son's accident was "exploitive" – especially since the accident happened 4 months before. To Butschek, the Commissioner stated: "I really find it amazing that a person who makes a living in such a demanding craft as yours could endanger that living by spending all this time shaving the rules. And that's all that you have been talking about – shaving the rules ... in ways that are very important to this Program and to all the other salespeople. ..."

Commissioner Rogers stated that he had "observed enough street artist lotteries to know that there is a great deal of trust" between the artists running the lottery and the artists trying to obtain spaces; he did not appreciate that the lottery procedures had been violated. He commended Commissioner Stermer for his stated position, and expressed his view that Mr. Butscek had committed "a very serious pair of infractions."

Commissioner Stermer moved that Martin Butschek be found in violation for selling in a location not designated by the Board of Supervisors and for entering the name and certificate number of another artist into the lottery; the motion was seconded by Commissioner Roth and unanimously approved.

Commissioner Stermer stated that he considered that "making a living by drawing pictures is one of the hardest things you can do in life" and this had to be considered in meting out a penalty.

Commissioner Freebairn-Smith stated that he felt "we're dealing with a chronic thing that's going to go on" and that "we must be fair to the other artists in reference to this and therefore probably be tougher than our sensitivity to" an artist's "livelihood."

Commissioner Stermer moved that Mr. Butschek's certificate be suspended for a period of six months, comprising three months for each charge and running consecutively; the motion was seconded by Commissioner Roth and unanimously approved.

Gerard Pepper Cracas – Certificate # 1908. Alleged violation: Selling in a location not designated by the Board of Supervisors (Ord. 41-83, Sec. 2405(b)). (hearing rescheduled from 8/11/99)

In response to questions by Program Director Lazar, Officer Stewart Ng testified that Mr. Cracas's violation occurred on the same date (July 2, 1999),at the same time (7:21 p.m.), and in the same location Jefferson Street, west of Jones Street) as Martin Butschek's violation; the Officer stated that he could not add anything more to the testimony he had previously given in the Butschek hearing.

The Program Director summarized the history of observations of Mr. Cracas selling in illegal locations. The current violation marked the *12th incident* of his having done so over the past 10 years. All 12 of his violations occurred on Jefferson Street, which is under the jurisdiction of the Port Commission. Like Mr. Butschek – and on the same day – Mr. Cracas on July 14, 1995 signed an "Acknowledgment of Receipt of Port Commission Conditions of Use of Street Artist Selling Spaces on Port Property," promising to "comply with all applicable laws, rules and regulations of the Port governing use of street artist spaces on Port property." After signing this statement, Mr. Cracas continued to violate.

Over the past decade, Mr. Cracas received 3 warnings issued by 2 Street Art Inspectors and the Street Artists Program Director. His 6th and 7th violations caused the Arts Commission to suspend his certificate for 3 weeks, congruently with Butschek's suspension, for the summer season of 1994, an action which was appealed to the Board of Appeals who upheld the suspension's duration but mitigated it to occur, with Butschek's suspension, in the inconsequential selling month of March. Mr. Cracas's 9th violation, occurring on the same day as Butschek's, caused the Commission to suspend his certificate, congruently with Butschek's suspension, for 6 weeks for the critical selling months of May and June, 1995, an action which he chose, like Butschek, not to appeal.

Two years later he was observed selling on 2 occasions in illegal locations on Jefferson Street during the summer – his 10th and 11th violations.

Four years later, after he was caught, along with Butschek, exceeding the display size regulations, Mr. Cracas received the Program Director's letter (following a written warning) stating his certificate would not be renewed unless he met with the Program Director and promised in writing to comply. At the same time Butschek signed his own such statement, Cracas signed a statement to the Arts Commission promising "that from now on he will abide by all of the regulations of the street artist ordinance ..." and that "he fully understands the provisions of the street artist ordinance pertinent to his certificate and conduct as a street artist."

Just 4 ½ months later (July 2, 1999), he and Butschek were observed by Officer Ng selling in an illegal location on Jefferson Street – Cracas's 12th such recorded violation.

Mr. Cracas stated that the citation came from Officer Ng "because of our relationship with him." He went on to say that the 4th of July weekend was exceptional in that "different procedures are followed ... namely, that the street gets closed off ... something like 80 people sell

... officially illegally but are allowed to sell on that weekend; the whole 2 blocks are filled with street artists. And with that in mind, I just appeal to the Committee for leniency ..."

Program Director Lazar clarified that the *Chronicle*'s 4th of July celebration at the Wharf permitted the artists to sell in the street only on the 4th of July itself and not for the whole weekend.

Commissioner Roth noted that Mr. Cracas was cited on July 2nd when artists were not selling in the street.

Officer Ng stated that, for July 4th, 280 officers are brought in with equipment, street closures, signs, flares, from other districts for crowd and vehicular management; on this last July 4th, Officer Ng worked a 26-hour shift. On that day, he said, there are more important things for the officers to do than ascertain that street artists are adhering to their location rules.

Commissioner Stermer moved that Gerard Pepper Cracas be found in violation for selling in a location not designated by the Board of Supervisors; the motion was seconded by Commissioner Roth and unanimously approved.

Commissioner Rogers moved that Mr. Cracas's certificate be suspended for a period of three months; the motion was seconded by Commissioner Roth and unanimously approved.

II. HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF TEMPORARY WINTER HOLIDAY SELLING SPACES FOR STREET ARTISTS IN THE DOWNTOWN AREA AND AT HARVEY MILK PLAZA, FOR NOVEMBER 15, 1999-JANUARY 15, 2000

The Program Director proposed the same 52 temporary selling space in the Downtown area as had been designated for the last 6 winter holiday seasons, plus 4 former temporary spaces on Sansome Street,

west side, at Sutter Street (adjacent to BART wall and Citicorp courtyard), and 4 new temporary spaces on the northwest corner of Post and Montgomery Streets (adjacent to Wells Fargo Bank); and the same 7 temporary selling spaces at Harvey Milk Plaza as had been approved the last 4 winter holiday seasons and the winter holiday season of 1992-93; all temporary spaces to be for the same time period as had been approved for the last 9 years.

With respect to the 4 former temporary spaces at Sansome and Sutter Streets and the 4 new temporary spaces at Post and Montgomery Streets, the Commissioners acknowledged the long history of unlicensed vendors selling in these locations not just seasonally but throughout the year for many years – illegal activities that have cost the Street Artists Program thousands of dollars in the hiring of off-duty Police officers to cite and confiscate the illegal merchandise of such vendors.

Director Newirth commented that, should these spaces, now occupied by the illegal vendors, be made temporary winter holiday spaces, a precedent could be established to ultimately make them permanent, thereby making such locations free of illegal vendors year round.

The Program Director stated that representatives of Citicorp, BOMA, and Wells Fargo had been specifically notified of the hearing. Other than the street artists, no one was present for the issue.

Commissioner Ishii moved to approve the Program Director's proposal for Board of Supervisors designation of temporary winter holiday spaces for street artists in the Downtown area and at Harvey Milk Plaza for November 15, 1999 – January 15, 2000; the motion was seconded by Commissioner Freebairn-Smith and unanimously approved.

No Program Director's report was given.

No public comment was given.

There being no further business, the meeting adjourned at 4:52 p.m.

Respectfully submitted:

Howard Lazar

Howard Lazar
Street Artists Program Director

S F
A C

SAN FRANCISCO ARTS COMMISSION

RICHARD NEWIRTH
OF CULTURAL AFFAIRS

75
/99
ELLED
PROGRAMS
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
PERFORMING ARTS
PUBLIC ART
URAL EQUITY GRANTS
SUITE 60
IVIC ART COLLECTION
EET ARTISTS LICENSES
SUITE 70
MMISSION GALLERY
VAN NESS AVENUE
415.554.6080

ECITY.SFSU.EDU/SFAC/
AC@THECITY.SFSU.EDU

DOCUMENTS DEPT.

SEP 30 1999

SAN FRANCISCO
PUBLIC LIBRARY

N O T I C E

The meeting of the STREET ARTISTS PROGRAM COMMITTEE scheduled for **Wednesday, October 13, 1999** has been **cancelled.**

The next meeting of the Street Artists Program Committee is scheduled for **Wednesday, November 10, 1999,** at **3:00 p.m.** in the Arts Commission's Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

September 29, 1999

CITY AND COUNTY OF
SAN FRANCISCO

25 VAN NESS AVE. SUITE 240. SAN FRANCISCO. CA. 94102 TEL. 415.252.2590 FAX 415.252.2595

SAN FRANCISCO ARTS COMMISSION

RICHARD NEWIRTH
OR OF CULTURAL AFFAIRS

PROGRAMS
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
PERFORMING ARTS
PUBLIC ART

ULTURAL EQUITY GRANTS
SUITE 60

CIVIC ART COLLECTION
STREET ARTISTS LICENSES
SUITE 70

COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

//THECITY.SFSU.EDU/SFAC/
IL: SFAC@THECITY.SFSU.EDU

CITY AND COUNTY OF
SAN FRANCISCO

STREET ARTISTS PROGRAM COMMITTEE

Wednesday, November 10, 1999
3:00 p.m.
Art Commission Conference Room
Suite 70 (basement area)
San Francisco, California

DOCUMENTS DEPT.
OCT 2 0 1999
SAN FRANCISCO
PUBLIC LIBRARY

AGENDA

NOTICE: Requests to testify are accepted before the item on which the individual wishes to speak comes up for consideration. The Presiding Officer will also call for public testimony on agenda items either at the beginning of the meeting or prior on the vote on particular items. Public testimony shall be limited to three (3) minutes per person. No member of the public or witness shall cross-examine another member of the public or witness unless approved by the Program Committee.

I. **HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF FIVE FORMER TEMPORARY SELLING SPACES ON GRANT AVENUE, EAST SIDE, POST TO SUTTER STREETS, AND ONE FORMER TEMPORARY SELLING SPACE ON GRANT AVENUE, WEST SIDE, POST TO SUTTER STREETS, FOR STREET ARTISTS**

II. **HEARING AND POSSIBLE MOTION TO APPROVE REQUEST BY STREET ARTISTS ROBERT AND WILLIAM CLARK FOR ARTS COMMISSION TO REQUEST BOARD OF SUPERVISORS FOR A HEARING TO CONSIDER TRANSFERING FROM GENERAL FUND TO STREET ARTISTS PROGRAM FUND EXCESS CERTIFICATE FEE REVENUE OF 1972-80; INTEREST ON EXCESS CERTIFICATE FEE REVENUE OF 1972-80; AND INTEREST ON CERTIFICATE FEE REVENUE OF PROGRAM'S FUND OF 1981-99**

III. **REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM**

IV. **PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING**

V. **SPACES** (At this time members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items.)

VI. **ADJOURNMENT**

ACCESSIBILITY INFORMATION

**Pursuant to City policy and the requirements of the 1973 Rehabilitation Act and the 1990 Americans with Disabilities Act, all City agencies will make reasonable accommodations to the needs of persons with disabilities.*

Full Commission Meetings, and individual Committee Meetings of the Art Commission will be held at 25 Van Ness Avenue, San Francisco, located on the corner of Oak and Van Ness. All meetings are held in Suite 70, basement level, and can be accessed by the two main elevators in the lobby of the building.

Accessible seating for persons with disabilities, including those in wheelchairs, will be available.

Accessible curbside parking has been designated on Oak Street between Van Ness Avenue and Franklin Street.

Accessible MUNI lines that serve this location are:

J, K, L, M, and N Trains--stopping at Van Ness and Market,
one-half block from the building.
9, 26, and 42 Buses--serving the area of Van Ness and Market.
Civic Center BART, located at the intersection of Grove, Hyde, and Market Streets.
For more information on accessible transit, call (415) 923-6142.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our **accessibility hotline** at (415) 554-8925 to discuss meeting accessibility. In order to assist the city's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the city to accommodate these individuals.

American sign language interpreters and/or a sound enhancement system will be available upon request at meetings. Please contact Liz Lerma in the Community Arts and Education Program at (415)252-2596 at least 72 hours prior to meeting. Late requests will be honored if possible.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Admin Code 16.520 - 16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

.75

10/99

S F
A C

SAN FRANCISCO ARTS COMMISSION

RICHARD NEWIRTH
RECTOR OF CULTURAL AFFAIRS

DOCUMENTS DEPT.

NOV 2 4 1999

SAN FRANCISCO
PUBLIC LIBRARY

STREET ARTISTS PROGRAM COMMITTEE

November 10, 1999

Arts Commission Conference Room, Suite 70
25 Van Ness Avenue
San Francisco, California

MINUTES

Commissioners present: Emery Rogers, Rod Freebairn-Smith, Dugald Stermer

Commissioners absent: Steve Ishii, Denise Roth

Staff present: Director of Cultural Affairs Richard Newirth
Street Artists Program Director Howard Lazar
Certification Clerk Antoinette Worthy

Commissioner Rogers, Chair, called the meeting to order at 3:17 p.m.

I. HEARING AND POSSIBLE MOTION TO APPROVE PROPOSAL BY PROGRAM DIRECTOR FOR BOARD OF SUPERVISORS DESIGNATION OF FIVE FORMER TEMPORARY SELLING SPACES ON GRANT AVENUE, EAST SIDE, POST TO SUTTER STREETS, AND ONE FORMER TEMPORARY SELLING SPACE ON GRANT AVENUE, WEST SIDE, POST TO SUTTER STREETS, FOR STREET ARTISTS

Program Director Lazar gave a history of his request: the Board of Supervisors, earlier this year, approving the Arts Commission's request to designate the six Grant Avenue spaces as temporary six-month spaces to replace six spaces on Stockton Street rendered unusable due to construction of an adjacent Levi Strauss store; the six new spaces proving to be some of the most valuable in the entire Street Artists Program, and the artists requesting that they be made permanent.

The Program Director reported that the Program Committee's agenda had been mailed to all of the store merchants/building owners on the Program's mailing list, 28 of whom were in the Downtown-Union Square area. In addition, the Program Director had personally alerted

PROGRAMS
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
PERFORMING ARTS
PUBLIC ART

CULTURAL EQUITY GRANTS
SUITE 60

CIVIC ART COLLECTION
STREET ARTISTS LICENSES
SUITE 70

T COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

://THECITY.SFSU.EDU/SFAC/
AIL: SFAC@THECITY.SFSU.EDU

CITY AND COUNTY OF
SAN FRANCISCO

the managers of the stores, adjacent to the requested six spaces, of the hearing. The Commissioners noted that no representative of any of these stores was present.

The Program Director reported that the manager of The Coach Store told him that she endorsed the street artist spaces in front of her business because they improved the ambiance of Grant Avenue. The Program Director also reported that no merchant or building owner had called him to object to the proposal. Furthermore, he was not aware of any incident or problem occurring as a result of the previous temporary designation of the spaces. In fact, the spaces met all of the public safety and fire regulations contained in the street artist ordinance.

The Commissioners noted that no members of the public wished to address the issue.

Commissioner Freebairn-Smith moved to approve the proposal by the Program Director for Board of Supervisors designation of five former temporary selling spaces on Grant Avenue, east side, Post to Sutter Streets, and one former temporary selling space on Grant Avenue, west side, Post to Sutter Streets, for street artists; the motion was seconded by Commissioner Stermer and unanimously approved.

II. HEARING AND POSSIBLE MOTION TO APPROVE REQUEST BY STREET ARTISTS ROBERT AND WILLIAM CLARK FOR ARTS COMMISSION TO REQUEST BOARD OF SUPERVISORS FOR A HEARING TO CONSIDER TRANSFERING FROM GENERAL FUND TO STREET ARTISTS PROGRAM FUND EXCESS CERTIFICATE FEE REVENUE OF 1972-80; INTEREST ON EXCESS CERTIFICATE FEE REVENUE OF 1972-80; AND INTEREST ON CERTIFICATE FEE REVENUE OF PROGRAM'S FUND OF 1981-99

Commissioner Rogers continued the item to allow staff time for an additional meeting with the City Attorney's office on the issues.

III. REPORT BY PROGRAM DIRECTOR ON ACTIVITIES OF STREET ARTISTS PROGRAM

The Program Director reported that on November 9th the Housing and Social Policy Committee of the Board of Supervisors unanimously recommended for approval the Arts Commission's request for temporary street artist spaces for the winter holiday season. All three Supervisors commended the efforts of the Arts Commission, the artists and their Program; Supervisor Teng, especially, emphasized the fact that the Program since its inception has authorized self-employment for 7,000 people. The request will be submitted to the full Board on November 15th. Seven of the spaces are at Harvey Milk Plaza and therefore require a ratifying resolution by the Public Transportation Commission which will take up the item on December 7th.

The Program Director reported on the efforts of Commissioner Roth to obtain re-authorization by Recreation-Park for the street artists to continue selling in Justin Herman Plaza. Prompted by the Commissioner, a meeting was held on the Plaza attended by Principal Recreation Supervisor Sandy Lee, Commissioner Roth, Program Director Lazar, Street Artists Harlan Simon, James Brady, Lynn Vandenberg, Anastasia Trainer, Leah Mazor, and Marcia Seeman, Property Manager Laura Gigante of Boston Properties (managing Embarcadero Center), and Dexter Carmichael of the Farmer's Market. At the meeting, Ms. Lee expressed a willingness to sign a re-authorization pending receipt of mapped-out proposals showing where the artists should sell on regular days and on Farmer's Market days during the present construction period and after. Subsequently, Commissioner Roth and Program Director Lazar met with Street Artists Tad Sky, Harlan Simon, Lynn Vandenberg, and Leah Mazor to review their requested proposals; these were sent to Sandy Lee.

The Program Director thanked and commended Director of Cultural Affairs Newirth for his participation three years before in laying the groundwork for this much-awaited agreement between the Recreation-Park Department and the street artists.

The Program Director further reported on a request from the Police Department that eleven spaces on Geary and Stockton Streets, adjacent to Neiman Marcus building, not be assigned in the street artist lottery nor occupied by street artists on November 26th, the day after Thanksgiving, because of a possible threat to the artists' and the public's safety by an anticipated animal rights protest in front of Neiman Marcus. The Program Director said he would communicate this to the Lottery Committee and to the artists at the lotteries.

-- The Commissioners welcomed Ms. Leigh Ann Matsche, Executive Director, and Mr. David Rogers of Union Square Business Improvement District who were offering their assistance in painting the street artists spaces on the sidewalks. Ms. Matsche stated that her organization was sustained by a self-imposed tax from the property owners in the ten-block area encompassing Union Square, and that the organization wanted to verify that only licensed street artists were selling on the sidewalks and selling in legal spaces. In the interest of maintaining a "clean" vicinity free of unauthorized vendors, she expressed support of the Street Artists Program and asked how her group could help in keeping the Program fair and in what ways her group could assist the Program Director.

Commissioner Rogers, in thanking Ms. Matsche, stated that he had observed that the street artists who sell in the Union Square area were among the most law-abiding artists in the Program (to which Ms. Matsche concurred).

Commissioner Freebairn-Smith discussed the occasional problem at Hallidie Plaza of "evangelists with bullhorns" exceeding the sound level ordinance and imposing themselves on "captive" visitors waiting to ride the cable car. Ms. Matsche, who stated she previously had managed the Flood Building, agreed that the cable car passenger line was considered "a captive audience" and that the activity of the bullhorn users was considered "aggressive panhandling," which has caused the Police to get them to move to other areas.

IV. PUBLIC COMMENT/OPEN FORUM FOR POSSIBLE PRESENTATION OF PROPOSALS FOR NEW SELLING SPACES

Ms. Leigh Ann Matsche of Union Square Business Improvement District informed the Commissioners of some of the plans for crowd control at Union Square on New Year's eve and asked how these would affect any street artist who might be selling. Program Director Lazar responded that if Stockton Street were to be roped off to vehicular traffic, those artists who wished to sell would have to be given special passes for times for unloading and loading their displays – similar to what they are given at Fisherman's Wharf for the 4th of July celebrations.

Commissioner Rogers announced that, sadly, this would be his last Street Artists Program Committee meeting, as he would be resigning from the Arts Commission due to his move in residence from San Francisco. He expressed his unhappiness over leaving the Commission, as he had enjoyed serving for the past five years. In the absence of the Commission President's directive, Commissioner Rogers requested that Commissioner Stermer be the interim chair of the Program Committee. Commissioner Stermer accepted.

Commissioner Rogers further requested that the minutes reflect his feeling that "it has been an absolute pleasure working with" Program Director Lazar and Certification Clerk Worthy, both of whom the Commissioner considered "extremely professional" with "requisite compassion and firmness."

In thanking the Commissioner, Program Director Lazar stated that he had tried to emulate the compassion and understanding Commissioner Rogers had given for the artists personally and in difficult public hearings. Another attribute of the Commissioner was his efforts in attending many street artist lotteries in order to investigate how they worked and to explore other issues with the artists, in advance of his Committee's deliberations on possible amendments to the rules. Historically, Commissioner Rogers was directly responsible for

enacting many revolutionary changes in the Program – the time-saving hearing procedure on street artist violations, the amendments to the screening criteria for printmaking, the designation of many viable selling spaces, to name a few of the major accomplishments.

The Commissioners acknowledged that the new hearing procedure has saved the Program Committee a significant amount of time which has been used, more beneficially, to consider and adopt requests from the artists for more selling spaces.

Commissioner Rogers also wanted it entered into the record that he felt the present Program Committee was the best committee on which he had served and its members were "the most effective body that maybe the Street Artists Program Committee has ever had; I am pleased and proud to have served with all of you." While none of the Committee members liked to hand out punishment for street artist violations, no one had shirked their responsibility to do it.

As a bit of "advice" to the new Chair, Commissioner Rogers stated that the present regulations, procedures, and policies have been enacted over a long period of time, have been well applied, and have proven their reasons for existence, and he hoped Commissioner Stermer would be as reluctant to change them as he had been; "whenever you do change something, try to make it simpler and not more complicated." Commissioner Rogers thanked his colleagues and the street artists for "a wonderful experience."

Commissioner Stermer stated that this Committee was his favorite and much of this feeling was attributable to Commissioner Rogers' participation. The Commissioners and staff thanked Commissioner Rogers for his service and wished him well. There being no further business, the meeting adjourned at 3:55 p.m.

Respectfully submitted:
Howard Lazar
Howard Lazar
Street Artists Program Director

SAN FRANCISCO ARTS COMMISSION

RICHARD NEWIRTH
IRECTOR OF CULTURAL AFFAIRS

70.75

2

2/8/99

ancelled PROGRAMS
CIVIC DESIGN REVIEW
COMMUNITY ARTS & EDUCATION
PERFORMING ARTS
PUBLIC ART

CULTURAL EQUITY GRANTS
SUITE 60

CIVIC ART COLLECTION
STREET ARTISTS LICENSES
SUITE 70

RT COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

TP://THECITY.SFSU.EDU/SFAC/
MAIL: SFAC@THECITY.SFSU.EDU

NOTICE

The meeting of the STREET ARTISTS PROGRAM COMMITTEE scheduled for **Wednesday, December 8, 1999** has been **cancelled.**

The next meeting of the Street Artists Program Committee is scheduled for **Wednesday, January 12, 2000** at **3:00 p.m.** in the Arts Commission's Conference Room, Suite 70, 25 Van Ness Avenue, San Francisco.

Street Artists Program

November 29, 1999

DOCUMENTS DEPT.

DEC 0 1 1999

SAN FRANCISCO
PUBLIC LIBRARY

CITY AND COUNTY OF
SAN FRANCISCO

25 VAN NESS AVE. SUITE 240. SAN FRANCISCO, CA. 94102 TEL. 415.252.2590 FAX 415.252